The Works of James Buchanan

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The Works

of

James Buchanan

Comprising his Speeches, State Papers,
and Private Correspondence

Collected and Edited
By
John Bassett Moore

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1841-1844

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The Works

of

James Buchanan

SPEECH, JULY 24, 1841,

ON THE BANKRUPT BILL.[1]

The question being on the passage of the bill to establish a uniform system of bankruptcy throughout the United States—

Mr. Buchanan said, that when he entered the Senate chamber this morning, he had not intended to say one word on the subject of the bankrupt bill. He was content that the question should have been taken silently on its final passage, and decided in its favor, as all knew it would be, from the vote yesterday upon its engrossment. The able remarks of the Senator from New York [Mr. Tallmadge] had induced him to change his purpose, and endeavor to place himself in a proper position before the public in relation to this important measure.

He trusted that he felt as much sympathy for the unfortunate as any Senator on this floor. It would, therefore, have afforded him heartfelt pleasure to be able to vote for this bill. He was sorry, very sorry, that from a deep sense of public duty, he should be compelled to vote against it. Would to Heaven that this were not the case!

It had been asserted over and over again, that there were five hundred thousand bankrupts in the United States anxiously awaiting relief from the passage of this bill. Now, from the very nature of the case, this must be a monstrous exaggeration of the number of these unfortunate men. Less than two millions and a half of votes had been given at the late Presidential election; and, if you add to this number five hundred thousand, the aggre-

[1] Cong. Globe, 27 Cong. 1 Sess. X., Appendix, 205–207.

gate of three millions would exceed the number of all the male inhabitants of the United States who could by possibility become bankrupts. Could any man believe that half a million of this number were in a state of bankruptcy? That every sixth man in the United States was in this wretched condition? The experience of us all must demonstrate that this was impossible. There were several States in the Union where this bill would be almost a dead letter for want of subjects on which it could operate. Although we had suffered much from the spirit of wild speculation, which had been excited to madness by our unrestricted banking system, yet he did not believe there were more than one hundred thousand bankrupts in the United States who would apply for relief under this bill.

Now, sir, what was the nature of this bill? Whom did it embrace in its provisions? He would answer, every individual in the United States who was an insolvent debtor. There was no limitation, no restriction whatever. It would discharge all the insolvent debtors now in existence throughout the Union, from all the debts which they had ever contracted, on the easiest terms possible. It was said that the bill contained provisions both for voluntary and involuntary bankruptcy; and so it did nominally: but in truth and in fact, it would prove to be almost exclusively a voluntary bankrupt bill. The involuntary clause would scarcely ever be resorted to, unless it might be by a severe and vindictive creditor, for the purpose of unjustly oppressing his unfortunate debtor. And why would this prove in practice to be a voluntary bankrupt bill, and that alone? The compulsory clause applied only to merchants—wholesale and retail, to bankers, factors, brokers, underwriters, and marine insurers. These were objects of compulsory bankruptcy, provided they owed debts to the amount of two thousand dollars. In order to enable their creditors to prosecute petitions against them, for the purpose of having them declared bankrupt, they must have committed one of the acts of bankruptcy specified by the bill. What were they? The debtor must either have departed from the State of his residence, with intent to defraud his creditors;—or concealed himself to avoid being arrested;—or fraudulently procured himself to be arrested or his goods or lands to be attached, distrained, sequestered, or taken in execution;—or removed or concealed his goods and chattels to prevent them from being levied upon or taken in execution;—or made a fraudulent conveyance or

assignment of his lands, goods, or credits. These were the five acts of bankruptcy specified in the bill; and could it be supposed that any merchant or man of business, in insolvent circumstances, would wait and subject himself to this compulsory process by committing any of these acts; whilst the bill threw the door wide open to him, in common with all other persons, to become a voluntary bankrupt, at any time he might think proper? He would select the most convenient time for himself to be discharged from his debts; and would cautiously avoid any one of these acts of bankruptcy, which might restrain the freedom of his own will, and place him in some degree within the power of his creditors. He would "swear out" when it suited him best, and would not subject himself to their pleasure. This bill, then, although in name compulsory as well as voluntary, was in fact, from beginning to end, neither more nor less than a voluntary bankrupt law.

Now it might be wise, on a subject of such great importance, to consult the experience of the past. In 1817, the British Parliament had appointed a commission on the subject of their bankrupt laws. The testimony taken by the commissioners was decidedly against these laws; and the Lord Chancellor declared that the abuses under them were a disgrace to the country; that it would be better to repeal them at once than to submit to such abuses; and that there was no mercy to the bankrupt's estate nor to the creditors. Mr. B. spoke from memory; but he felt confident he was substantially correct in the facts stated. This was the experience of England; and that too, notwithstanding their bankrupt laws had interposed many more guards against fraud than the present bill contained, and were executed with an arbitrary severity, wholly unsuited to the genius of our institutions. In that country, however, these laws had existed for so long a period of time, and were so interwoven with the business habits of the people, that it was found impossible to abolish them altogether.

We have had some experience on this subject in our own country. Congress passed a bankrupt law in April, 1800. It was confined to traders, and was exclusively compulsory in its character. The period of its existence was limited to five years and until the end of the next session of Congress thereafter. It so entirely failed to accomplish the objects for which it was created, and was the source of so many frauds, that it was permitted to live out but little more than half its appointed days.

It was repealed in December, 1803; and a previous resolution, declaring that it ought to be repealed, passed the House of Representatives by a vote of 77 to 12.

The State of Pennsylvania had furnished another important lesson on this subject. In March, 1812, the Legislature of that State passed a bankrupt or insolvent law absolving all those who chose to take advantage of it from the payment of their debts. It was confined to the city and county of Philadelphia; but within these limits, like the present bill, it offered relief to everybody who desired to be relieved. This act was repealed, almost by acclamation, at the commencement of the very next session after its passage. Its baneful effects were so fully demonstrated during this short intervening period, that the representatives from the city and county who had, but a few months before, strained every nerve to procure its passage, were the most active and zealous in urging its repeal.

During the first session of his service in the House of Representatives, (that of 1821–2,) powerful efforts were made to pass a bankrupt law. There was then a greater and more general necessity for such a measure than had ever existed since. The extravagant expansion of the Bank of the United States in 1816, '17 and '18 had reduced it to the very brink of insolvency. In order to save itself from ruin, it was compelled to contract its loans and issues with a rapidity beyond all former example. The consequence was, that the years 1819, '20 and '21 were the most disastrous which the country had ever experienced since the adoption of the Federal Constitution. Not only merchants and speculators were then involved in ruin; but the rage for speculation had extended to the farmers and mechanics throughout the country, and had rendered vast numbers of them insolvent. The cry for relief, by the passage of a bankrupt bill, therefore, came to Congress from all classes of society, and from almost every portion of the Union.

The best speech which he (Mr. B.) had ever made in Congress was in opposition to that bill. The reason was, that he had derived much assistance from conversations with Mr. Lowndes upon the subject. That great and good statesman was then suffering under the disease which proved fatal to him soon after. He attempted to make a speech against the bill, but was compelled to desist by physical exhaustion before he had fairly entered on his subject. It was his decided conviction, that no bankrupt law of which the English system was the model could

ever be adopted by Congress without great injury to the country. He (Mr. B.) had attempted to demonstrate this proposition, at that period, and he should now again, after the lapse of nearly twenty years, make a very few observations on the same subject.

And in the first place, it would be physically impossible for the district courts of the United States to carry this law into execution; and if it were even possible, it would be extremely burdensome and oppressive to the people generally.

The bill prescribes that all applicants for its benefit shall file their petitions in the district court of the district in which they reside. Twenty days' notice only is required, and that not to be served personally on the creditors, but merely by newspaper publication. At the time and place appointed, the creditors of the applicant may appear and show cause why the prayer of his petition should not be granted. If there be no appearance on the part of the creditors, or sufficient cause be not shown to the contrary, then the court decree the applicant to be a bankrupt; and thus ends the first stage of the proceedings, so far as he is personally concerned.

After such applicant has been thus declared a bankrupt, and has complied with all the provisions of the act, he may then file another petition to be discharged from his debts, which may be granted at any time after ninety days from the date of the decree declaring him a bankrupt. Seventy days' notice is to be given to his creditors to appear in court, and oppose his discharge, if they think proper.

It thus appeared that there might be two formal hearings in each case before the district court upon every application; and that there would be, in many of the cases, was beyond a doubt. Besides, from the very nature of the proceedings in bankruptcy, and from the provisions of the bill, the interlocutory applications, and the examinations of the bankrupt before the court, must be very numerous. At every stage of the proceedings a large portion of the time of the court must necessarily be devoted to the subject.

Should the district court decide that the bankrupt shall not be discharged, he might then demand a trial by jury, or appeal from this decision to the circuit court. This would be another prolific fountain of business for the district and circuit courts of the United States.

Thus far the proceeding was confined to the bankrupt personally. But before what court was his estate to be settled? By

the terms of the bill, the demands of all creditors of the bankrupt, if disputed, must be tried in the district court; the controversies which might arise between the creditors and the assignees of the bankrupt, and also between the bankrupt himself and his assignees, must be settled in the district court; and, to use the comprehensive terms of the bill, the jurisdiction of that court was extended "to all acts, matters, and things to be done under and in virtue of the bankruptcy, until the final distribution and settlement of the estate of the bankrupt, and the close of the proceedings in bankruptcy."

There were also several criminal offences created by the bill; all of which must be tried in the district courts of the United States.

From the nature of the Federal Constitution, all the business which he had enumerated must necessarily be transacted in the courts of the United States. It could not be transferred to the State courts.

Now, sir, said Mr. B., this bill will prove to be a *felo de se*. It can never be carried into effect, for want of the necessary judicial machinery. Another midnight judiciary must be established, to aid bankruptcy. The number of these midnight judges which were added to the Federal Judiciary in February, 1801, was eighteen; and if these were necessary at that time, three times the number would not be sufficient at present.

He had just examined McCullough's Commercial Dictionary, under the title Bankruptcy. He there found that the annual number of commissions of bankruptcy opened in England on an average of nine years, ending with the year 1830, was a little below seventeen hundred. The average annual number of all the commissions which issued during the same period, was about two thousand one hundred. One-half of these seventeen hundred cases were what are called town cases, and the other half country cases. To transact the town business alone, consisting of eight hundred and fifty cases annually, it had been found necessary to establish a new court of bankruptcy, similar to the ancient courts at Westminster Hall, consisting of one chief judge, and three puisne judges. To this court there were attached six commissioners, two principal registrars, and eight deputy registrars. Such was the judicial force found necessary in England to examine and decide upon the cases of seven hundred and fifty bankrupts in each year.

Then what provision had the present bill made to discharge

half a million of bankrupts, the number which its friends assert exist at present in the United States? None whatever, except to cast this burden upon the district courts of the United States, which, in the large commercial cities, where the cases of bankruptcy must chiefly be heard, had already as much business as they could conveniently transact. The courts could not transact all this business, if there were half a million of bankrupts to be discharged, within the next twenty years. Sir, unless you establish new courts, and increase your judicial force at least ten fold, it is vain for you to pass the present bill. Without this, the law can never be carried into effect. The moment it goes into operation, these unfortunate bankrupts will rush eagerly to the district courts in such numbers as to arrest all other judicial business. This bill provides that these courts shall be considered open every day in the year, for the purpose of hearing bankrupt cases.

The district courts of the United States were scattered over the Union at great distances from each other. For example, there were in the State of New York, he believed, but two of these courts. In Pennsylvania, one was held in Philadelphia, another in Pittsburg, and a third in Williamsport. Pittsburg and Philadelphia were three hundred miles apart; and parties, jurors, and witnesses must constantly be in attendance from great distances at these two places, on the hearing of the different bankrupts, and on the trial of all the causes which might arise out of the settlement of their estates. By the operation of this bill, all these causes would and must be transferred from the State to the Federal courts. This would be an intolerable oppression to the people.

Without entering into any detail of the frauds to which this bill would give birth, he must be permitted to advert to the effect which it would have upon the rights of creditors in States distant from the court where the debtor might make his application. It would speedily sponge away all the indebtedness, now very great, of the Southwestern portion of the Union to the Eastern cities. Our merchants in those cities, should the bill pass, would have no difficulty in balancing their books. This would be done for them by the bill in the easiest possible manner.

Under all other bankrupt laws which had ever existed, or ever been proposed, either in this country or in England, or anywhere else, as he believed, the debtor could not obtain his certificate of discharge without the express written assent of a certain proportion of his creditors in number and value. This rule had

never been found to operate severely in practice on honest debtors, whilst it afforded some security to the creditors. Under the present bankrupt laws of England, the certificate of discharge must be signed by four-fifths in number and value of the creditors of the bankrupt; and under our old bankrupt law of 1800, two-thirds in number and value of the creditors were required to sign. Without this express assent, no bankrupt could receive his certificate of discharge. But the present bill had completely reversed this rule. Under it the debtor must be discharged, "unless a majority in number and value of his creditors, who have proved their debts, shall file their written dissent thereto." Now he should put a case; and many such would occur under the present bill. A merchant in Philadelphia had a debtor in Mississippi, who owed him $20,000. This debtor applies to the district court of that State for the benefit of the act. The merchant believes he has been guilty of fraud, and determines to oppose his discharge. He goes or sends to Mississippi for this purpose. I ask you, sir, what chance he would have to obtain the necessary proof, in a country where thousands were at the same time applying for the benefit of the bankrupt law. The task would be hopeless; and consequently the attempt would be made in very few cases. Had the law required the express assent of two-thirds or even a majority in number and value of the bankrupt's creditors, the merchant would have had one security left. The debtor must have satisfied him that he had acted honestly before he could have obtained his assent. Now the debtor would be discharged unless a majority expressly dissent. The ancient rule had been reversed; and instead of an express assent being required to produce his discharge, there must now be an express dissent to prevent it. And if the majority did dissent, what would be the consequence? Was this conclusive, and would the debtor still remain liable? No, sir, no. The Philadelphia merchant would then have to enter upon a new law-suit. Notwithstanding this express dissent, the question would, under the bill, be referred to a jury, and if they decided in the bankrupt's favor, he was discharged from his debts forever, even against the dissent of all his creditors. This jury would necessarily be composed of his own neighbors, all having a sympathetic feeling with him, and looking upon the distant Philadelphia creditor as an unjust and an unfeeling man. This was a natural feeling, and common to almost all men in similar circumstances. It implied no imputations upon their honesty. Truly this bill was a measure to relieve

all debtors who might desire to cut loose from their debts, without any adequate provision for the security of creditors.

But all these evils were nothing when compared with the baneful effects which the bill would have upon the morals of the people of this country. Our people were already too much addicted to speculation, and too anxious to become suddenly rich. As a nation, we required the rein and the bit much more than the spur. The present bill would stimulate the spirit of speculation almost to madness. Men would be tempted by the hope of realizing rapid fortunes, and living in affluence the remainder of their days, to embark in every wild undertaking, knowing that they had everything to gain and nothing to lose. This bill proclaimed not merely to merchants and insurers, whose business was from its nature hazardous, but to every citizen of the United States, "you may be as wild and extravagant in your speculations as you please—you may attempt to seize the golden prize in any manner you choose: if you succeed you will then possess what your heart most desires; if not, your debts shall be blotted out in the easiest manner possible, and you may begin the world again." This was in effect the language of the bill. The consequence must be that the faith of contracts would soon become an idle word. Our former bankrupt law was wholly compulsory in its character, and was confined to traders. The present English bankrupt law expressly excludes farmers and graziers from its provisions. We went a long distance in advance of both. The present bill would be in effect wholly voluntary, and it embraced everybody under the sun, and all debts which had been, or might be, contracted.

He would venture to predict, that when this bill should go into operation the people of the United States would soon become astonished and alarmed at its consequences; and it would be blotted out of existence in less time than had elapsed between the passage and repeal of the act of 1800.

He might be asked if he were opposed to a bankrupt law in any form. He could answer that he was not. He would most cheerfully vote for any safe measure of this nature which could be carried into execution by the courts of the United States, and he did not believe that it would be very difficult to frame such a measure. The judicial system of the Federal Government was of such a character, that it could never execute a bankrupt law, modelled after the English system, without producing great fraud, delay, and injustice. If you changed this system, and increased

the number of courts and judges, so as to enable them to transact the business under this bill, with proper deliberation and within a reasonable time, you would go far towards producing a judicial consolidation of the Union. It was the opinion of Mr. Lowndes, that we should be compelled to abandon the idea of framing a bill upon the English model, and adopt the system which prevailed in countries subject to the civil law. For example, he (Mr. B.) would permit a debtor in failing circumstances to make any composition he could obtain from a majority of two-thirds in number and value of his creditors. In that event, he would discharge him from his debts as against the remainder, unless they could prove that he had been guilty of fraud. He would never place any unfortunate but honest debtor in the power of a few vindictive creditors against the will of the majority. Such a law would, in a great degree, execute itself, and dispense with nearly all the machinery of this bill. The composition between the debtor and his creditors, and his assignment of his property for the benefit of them all, which he should consider indispensable, might be filed in the district court, and receive its sanction. He would not take time at present to do more than hint at the nature of the bankrupt law, which he thought would be applicable to this country. It would very much resemble the *cessio bonorum* which now prevailed in Louisiana, where the civil and not the common law governed the proceedings of the courts.

But what great and over-ruling necessity existed for Congress to pass any bankrupt law? Each State could now pass bankrupt laws, which would relieve their citizens from the obligation of debts contracted with other citizens of the same State subsequent to the passage of such laws. This point had been solemnly adjudged by the Supreme Court of the United States, in the case of Ogden *vs.* Saunders, reported in 12th Wheaton, 213; and its authority was confirmed in the case of Boyle *vs.* Zacharie, reported in 6 Peters, 635.

This discharge, however, would be confined to debts contracted between citizens of the same State where the discharge was granted. The decision rested on the principle, that the State law under which the discharge would take place, had become a part of the original contract, in the contemplation of the parties. But if a citizen of Pennsylvania had loaned money to a citizen of New York, who should afterwards take the benefit of a bankrupt law existing in the latter State, this would not discharge the debt; but the Pennsylvanian might, notwithstand-

ing, recover the amount due from the New Yorker, in either the Federal or State courts. But, even in such a case, if the Pennsylvania creditor should accept his dividend of the estate of the New York debtor, he would then be bound for ever, and the debt would be discharged. [Vide the case of Clay *vs.* Smith, 3 Peters, 411.] Foreign creditors would, in almost every instance, accept such dividends, if they amounted to any thing considerable; and this would be an encouragement for debtors, in failing circumstances, not to struggle on till all their property was gone, but to surrender it while something remained for the general creditors. Thus, then, it was clear that the States could provide for all prospective cases, and could enact bankrupt laws which would have the same force and effect between their own citizens as though they had been passed by Congress. Besides, the State courts, established in every county, could carry those laws into effect with promptitude, and without inconvenience to the people.

A thought had struck him at the moment. Why might not Congress declare by law that a discharge under all State bankrupt laws should be as effectual against citizens of other States as they could be against citizens of the same State? This would render the system complete in regard to future debts, without any further interposition of Congress. He would not say that we possessed the power, under the Constitution, to pass such a law, because he had never considered the subject, but, if we did, it would be the best mode in which we could exercise our power over bankruptcy. Every State would then be left at liberty to adopt the policy in relation to bankrupts required by its own peculiar circumstances, and to execute the laws which operated chiefly upon the domestic concerns of its own citizens according to its own discretion.

Mr. B. said, as he had referred to the speech which he had made in the House of Representatives on this subject, nearly twenty years ago, he felt bound to acknowledge that, upon one point, he had fallen into a then prevailing error. Of this he had been fully convinced by the debate in the Senate at the last session. In 1822, it was his opinion that the constitutional power of Congress was confined to traders, or that class of persons which were embraced by the bankrupt laws of England at the time of the adoption of the Federal Constitution. This he now believed was too narrow a construction. The Constitution declared that "Congress shall have power to establish uniform laws on the subject of bankruptcies, throughout the United States." The

subject of bankruptcies was thus placed generally under our control; and wherever bankruptcy existed, no matter what might have been the pursuits of the bankrupt, whether he had been a trader or not, our power extended over him. It also, in his opinion, embraced artificial as well as natural persons. Was it not absurd to say, that an individual manufacturer on one side of the street at Lowell might be subjected to the compulsory operation of a bankrupt law; whilst two or three individual manufacturers on the other side of the same street who had obtained a charter of incorporation from the Legislature of Massachusetts, could thus withdraw themselves in their corporate capacity from the power conferred upon Congress over bankruptcies? He, therefore, entertained no doubt of the power of Congress to pass a compulsory bankrupt law against banks. If it could not pass such a law, a firm of individual bankers would be embraced by our power; but if these very individuals obtained a charter of incorporation they might then place that power at defiance. He entertained as little doubt of the policy of such a law as applied to banks. The knowledge of its existence would of itself, in almost every instance, prevent the necessity of its application. Banks, then, in order to save themselves from destruction, would take care to conduct their business in such a manner as always to be able to pay their liabilities in specie. He indulged no hope of a permanently sound convertible paper currency except what arose from the power of Congress to subject banks to a bankrupt law. This was the only practicable method which could be devised of securing to the people this great blessing.

Mr. B. thought it might be shown that this bill was deficient in its details. He would now only refer to one particular. It dispensed with the use of commissioners of bankruptcy altogether. In this respect it was a departure from the English statute of bankruptcy, and from our own act of 1800. Now whilst he admitted that compulsory bankruptcy would rarely occur under this bill, unless it might be to gratify the malignity of a severe creditor; yet he asked the chairman of the committee [Mr. Berrien] to say what would become of the debtor's property between the time which would intervene between filing the petition against him by the creditor, and the final decree of the court declaring him a bankrupt. The debtor might require a trial by jury before the court to ascertain the fact whether or not he had committed an act of bankruptcy. This trial might, and probably would, often be delayed for years, whilst it ought to proceed immediately. What

was to become of the debtor's property in the mean time, without commissioners? Was he to be left to squander it at pleasure? On the other hand, if the petitioning creditor should proceed without sufficient cause, the act of 1800 gave the debtor a remedy against him. He was bound, before the commission was sued out, to give bond, with such surety as the court might direct, conditioned that the obligor should prove the debtor to be a bankrupt. In case of failure, the debtor had his remedy on the bond to the amount of the injury he might have sustained, in case the condition of it had been violated. Surely this was no more than justice. After the debtor had been arrested in the pursuit of his business by a charge of bankruptcy—after his prospects in life had been blasted—after his credit had been destroyed—and after he had been pursued for years in a course of litigation which eventually terminated in his favor, justice required that he should have some remedy. He asked, therefore, why these provisions of the act of 1800 had been left out of the present bill.

It had been contended that as the Constitution had conferred upon Congress the power to pass a bankrupt law, it was therefore their duty to exercise this power. But power was one thing and duty another. The language of power was that you may—of duty that you must. The Constitution had also conferred upon Congress the power of declaring war, of imposing taxes, and of raising and supporting armies; but would any Senator contend that it was our duty to give life and energy to these powers by calling them into action, unless the interest or honor of the country demanded it at our hands? These sovereign powers were to be exercised or not, according to the dictates of a sound discretion: and we were under no obligation whatever to pass a bankrupt law, unless we believed that under all the circumstances of the country, such a law would promote the best interests of the people.

Upon the whole, he could declare that such was his sympathy for these unfortunate debtors, that he had never given a vote in his life more disagreeable to his feelings than the vote which he should be compelled to give upon the present occasion. He was convinced, however, that this bill, in its effects, would prove disastrous to the people; and, therefore, although reluctantly, he should record his vote against its passage.

REMARKS, JULY 26 AND 27, 1841,

ON THE BILL TO INCORPORATE THE SUBSCRIBERS TO THE FISCAL BANK OF THE UNITED STATES.[1]

[July 26.] Mr. Walker then moved to strike out the amendment and insert the proviso, that no note or bill shall be discounted for any member of either House of Congress.

Mr. Buchanan looked upon the disposition now evinced to sweep out the few salutary checks and guards effected in committee by the Democratic side of the chamber, as matter of fearful omen. He held up to view the monstrous spectacle of a Legislature—on whom the scrutiny of Bank abuses depended, and to which the community must look for redress of wrongs perpetrated by the institution—itself in the power of the Bank in consequence of a great portion of the members holding money at its will, which they might be unable to pay—the spectacle of a people contending with an institution whose policy would be to oppress them, relying on Representatives secretly in the pay of the Bank. This would reduce to mockery all pretence of responsibility in the moneyed power, which would hold the prices of property, the control of the currency and commerce of the country, in its hands —and with these powers, that of legislation would be associated, because the power to make the members of Congress rich or poor, at pleasure, will be sufficient at all times to give the casting vote on any question of importance in Congress.

Mr. Clay said the directors of the Bank were not to have any loans, and therefore they would have no sympathy with the directors of the branches.

Mr. Buchanan advocated the amendment.

* * * * * * * * * *

Mr. Clay said that the greater part of the loans were made by those opposed to the Bank.

Mr. Buchanan had no doubt of that.

[Mr. Huntington moved to amend the bill by providing that no notes of less denomination than five, instead of ten, dollars should be issued, and advocated this amendment at some length. A debate ensued.]

Mr. Buchanan said, if there was to be a five dollar circulation in the country, this Bank ought not to participate in it, but it ought to be left to the minor banks. Again, they could never

[1] Cong. Globe, 27 Cong. 1 Sess. X. 249, 250, 255–256.

have a sound currency while the banks were allowed to issue notes of one dollar, or five dollars; since a specie basis was necessary. If they allowed the Bank of the United States to issue notes of so small a denomination as one, two, or three dollars, they would transfer this right inalienably to the corporation, and if it were found injurious to the interests of the country, they could never retract it.

[July 27.] Mr. Buchanan said that he trusted we had now reached the last scene of the fifth act of this National Bank drama. It was not his wish to delay the final catastrophe beyond this afternoon, and he should therefore trouble the Senate with but a very few remarks. One act of justice he must perform to the Senator from Virginia, [Mr. Rives,] without knowing whether it would meet his approbation. He must say of that Senator that throughout this drama he had sustained his character with firmness, ability, consistency, and dignity. He had taken his ground manfully in the beginning, and had maintained it until the end. And what was the compromise which the Senator from Kentucky [Mr. Clay] had, at this last hour, offered to the Senator from Virginia, for the purpose of satisfying the consciences of high-toned State Rights men? The Senator from Virginia, when he offered his amendment requiring the assent of the States to the establishment of branches within their limits, had distinctly declared that without this assent, Congress, in his opinion, had no power under the Constitution to establish such branches. There he stood: and it was impossible for him to yield to any compromise, inconsistent with his declared constitutional convictions. Under these circumstances, what had we witnessed? The Senator from Kentucky had offered an amendment providing, not for this assent of the States, but that they might dissent, if they thought proper, from the establishment of branches within their limits; and in that event, no branch should be established. The Senator limits the power of dissent to the close of the first session of the respective Legislatures after the passage of the present bill; and in case this dissent shall not be declared within that period by some act of the legislative power, the branch is then established within such State as long as the charter shall endure. This was a most singular mode of bringing the State Rights portion of the Whig party into the support of the bill. What was the plain English of this provision? These nine directors of the Fiscal Bank, stationed at Washington, will have the power of issuing a summons to each of the sovereign States of this

Union, warning them that if they do not appear and plead against it within sixty or ninety days, a branch bank shall be established within their limits. If they fail to appear, judgment shall then be entered by default in the high court of bank directors, against these sovereign States. The rule of law, he believed, was, that judgment could not be obtained by default upon a *scire facias* in individual cases, without a previous return of "*two nihils,*" but, according to the amendment of the Senator from Kentucky, it might be entered against one of the States of the Union, in the court of the Bank directors after a return of a single "*nihil.*" These States may answer yes or no; but if they fail to answer at all, by this omission, they surrender the sovereign power of legislation in regard to the admission of a branch bank within their limits. To speak seriously upon this subject, was there a man within the sound of his voice, feeling any proper regard for the sovereignty and dignity of these confederated States, who did not instinctively condemn the amendment of the Senator from Kentucky, the moment it was read?

What State Rights politician was there throughout the country who would not feel indignant at the idea of treating these sovereignties in this manner? The nine sovereign directors of the Bank in the city of Washington would have nothing to do but amuse themselves in the groves, and in the society, of the Capitol, until the sixty or ninety days had expired, during which the sessions of the different Legislatures might continue. If at the expiration of this period the States should remain silent, the decree is then to issue from the Board of Directors that they shall be deprived of their sovereign rights over the subject during a period of twenty years.

The Senator from South Carolina [Mr. Preston] had informed us that "the States might be understood to express assent by the non-user of the power of dissent." But this would be an inference directly at war with the fact; because an accidental Bank majority in one branch of the Legislature of any State, could prevent the passage of any act declaring such dissent, and thus establish a branch within its limits against the will of the other branch of the Legislature, the Executive and the people. Indeed from the nature of the Senator's amendment, it might appear to those not acquainted with his frank and manly character, that it was all a trick; an assumption of the appearance of yielding something, when it, in fact, yielded nothing.

It was of vital importance to the interests of the Bank that it

should have branches in New York and Philadelphia. New York was the great centre of the commercial business, and of the foreign and domestic exchanges of the country; and it was indispensable that the Bank should establish a branch in that city; and Philadelphia was scarcely second to it in importance. The Senator could without difficulty obtain branches in those cities under his rule that the omission to dissent should be construed into an assent. The Senate of Pennsylvania had been suddenly transformed at the time the late Bank of the United States obtained its State charter, and its feelings of extreme hostility were changed into devoted friendship to that institution. There was something miraculous in the illumination and conversion of seven of the Democratic anti-Bank Senators of that body. The Democrats had never since been able to obtain an efficient majority in the Senate, and probably might not until after the next session of the Legislature. Now, according to the principle of the Senator's amendment, the Governor, and a large majority of the House of Representatives, and the people, might all be, as he sincerely believed they would be, opposed to the establishment of a branch at Philadelphia; and yet the branch must be established, because the Senate alone could prevent any legislative act from being passed on the subject. He understood that New York would, in all human probability, be placed in a similar position. Such, then, would be the operation of the rule that assent was to be inferred from "the non-user of the power of dissent."

He had voted against the amendment of the Senator from Virginia, requiring the assent of the States to the establishment of branches within their limits; and he should vote against the amendment of the Senator from Kentucky, because he deemed it still more objectionable. And why had he voted against the amendment of the Senator from Virginia? Because he believed it to be equally unconstitutional with the original bill; and that it would prove even more injurious, if possible, to the interests of the country. Had this amendment prevailed, it would have carried the bank war into the Legislature of every State of the Union. The struggle in many States would have been tremendous, and bank loans and bank facilities and bank accommodations would have been freely used to obtain this assent. The members would have been exposed to severe temptations, and the virtue of some might have fallen in the conflict. It was to avoid the disgraceful and demoralizing scenes referred to by the Senator from Rhode Island [Mr. Simmons] that Mr. B. had voted

against the amendment of the Senator from Virginia requiring the assent of the States to the establishment of branches. He never should give a vote, the direct consequence of which would be to bring the money power to bear directly upon the legislative power of all the States in this Union.

But if the amendment of the Senator from Virginia had been bad, that of the Senator from Kentucky was still worse; and, upon his own avowed principles, he did not perceive how the Senator from Rhode Island [Mr. Simmons] could give it his support. Under the amendment of the Senator from Kentucky, the task of the moneyed power would be rendered much easier, and its success much more certain. If the nine directors here could obtain the favor either of the Governor, or the Senate, or the House of Representatives, this would be sufficient to prevent the legislative expression of dissent, and thus the branch would be established. The voice of the people was to be entirely disregarded. Either branch of the Legislature or the Governor would be sufficient. This amendment, by reducing the number of individuals on whom the moneyed influence was to operate, would enable it to operate with the more intensity and power on these individuals.

What would be the effect? Let him put a case which would illustrate his position. Suppose the Governor, and a large majority of the Legislature, and of the people of Pennsylvania, should be hostile to the establishment of a branch within its limits, and yet the Senate should prevent the passage of an act expressing their dissent; what would then be the inevitable consequence? Would the people submit to this snap judgment? Would they consent that the mere accidental majority in the Senate, during one session, should bind the people of the State to submit to the existence of an odious branch throughout the whole period of the parent Bank's existence? No, sir, never; and when he said they would not submit, he did not mean to threaten rebellion—far from it. They would make all the political opposition to it in their power, and would use every effort, consistently with the Constitution, to drive it from the State. The same consequences would result in other States. The Senator's amendment would excite a furious Bank war all over the Union—such a war as has not yet had any parallel in our history. The battle, after having been fought in Congress, would be transferred to each State Legislature, and the people would everywhere become exasperated at this new mode of depriving them of their rights

under the rule that if a sovereign State did not dissent, in express terms, that it, therefore, assented. This truly would be a new rule to establish in the intercourse between nations.

The business and the interest of the people of this country had suffered more from their unnatural connection with politics, than from all other causes combined. Once separate the business of the country from the politics of the country, and the native energy and enterprise of our people would soon redeem them from all their embarrassments. It seems to be a curse inflicted upon us that we cannot keep these two interests asunder; and now we were embarking upon another experiment to connect the two together more intimately than ever, which could not fail to prove disastrous. Surely we derive less wisdom from our experience than any people upon earth. Keep the business of the country and the politics of the country separate, and we should be by far the most prosperous people on earth. As long as politicians continue to influence the business of the country, to accomplish their own selfish purposes, we shall experience nothing but expansions and contractions of the currency, and derangement in all our pecuniary concerns. Besides, they will stifle the real voice of the people, and prevent it from being heard, by controlling legislative bodies.

So much for this proposition, which could never have been accepted by the Senator from Virginia, without directly violating his avowed principles, even if it had stopped here. But the Senator from Kentucky seems to have left no subterfuge, no escape whatever from the inevitable conclusion, that he who should vote for the amendment would admit, in the strongest manner, the power of Congress to establish branches in any State without its consent. Accordingly, in a subsequent clause of his amendment, he reserves to Congress the power of establishing a branch in any State, whenever in their opinion it might become necessary and proper. What was this but to ask an absolute surrender, at discretion, from the Senator from Virginia, under color of a compromise? This, however, was not a matter in which he, Mr. B., could be supposed to feel any peculiar interest. He wished now merely to say, that having voted against the amendment of the Senator from Virginia for reasons which applied with much greater force against that of the Senator from Kentucky, he should vote also against this proposition.

One word more and he had done. The Senator from Kentucky does not, by his amendment, agree even to forbear to exer-

cise any power which he has ever claimed. If a State dissents in the most solemn form of legislation, and forbids the location of any branch within its limits, the last clause of the amendment provides that Congress may, on the very next day, annul this dissent and establish such a branch in the face of this act of State legislation. The State sovereignty is thus told, You may assent or dissent; but if you venture to dissent, we shall, notwithstanding, do as we please afterwards, and force a branch upon you whether you will or not.

REMARKS, JULY 28, 1841,

ON A BILL TO CARRY INTO EFFECT THE TREATY WITH MEXICO.[1]

Mr. Preston, from the Committee on Foreign Relations, reported without amendment the bill to carry into effect the provisions of the treaty with Mexico. Mr. P. explained the position in which the commission was placed, and the necessity that existed for the passage of the bill.

Mr. Buchanan would say, as a member of the Committee on Foreign Relations, that he had examined the bill and saw nothing in it that should forbid immediate action, but, on the contrary, that there would be great propriety in passing it at once. Under the provisions of the treaty, the claimants were to be paid as soon as the claims were established, but by some strange inadvertency in the law of Congress, the award could not be made until the whole claims had been passed on. Now this law was in direct violation of the treaty, and injurious to the interests of the claimants.

TO MR. BROWN.[2]

WASHINGTON, 30 July 1841.

MY DEAR SIR/

I was most sincerely rejoiced at the receipt of your letter of the 13th Instant. Knowing your aversion to write, I consider a letter from you of eight pages as the highest evidence of your

[1] Cong. Globe, 27 Cong. 1 Sess. X. 258.

[2] An Annual Publication of Historical Papers; published by the Historical Society of Trinity College, Durham, N. C.; Series VI., 1906, pp. 78–79.

regard: and I can assure you I have no friend with whom I desire to stand higher than yourself. Your frank and manly character has secured my warmest regard. When Old Rip wakes up again to his true interest, you will again be called into public life.

You doubtless take the Globe and therefore I need not inform you of passing events. All the confidential friends of Tyler say that he will veto the Bank Bill: and of this I entertain no doubt, should it remain unchanged as I believe it will in every essential particular. What will be the character of his veto is the important question. If whilst vetoing Clay's Bill, he endorses the Treasury project, he will sink almost beneath contempt. Clay and his friends may then take Tyler at his word and adopt Ewing's "rickety thing." In that event the stock will not be taken and he will stand disgraced before the world. I believe Tyler desires to set up for himself; and yet he suffers the work of proscription still to proceed. Ewing and Granger are filling all the offices under them, it is said, with Clay's friends. Should he come out boldly and give us an Old Hickory veto, I shall stand by it whilst there is a shot in the locker; but before I enlist, I desire to see him manifest his faith by his works.

King orders me to command you to rouse yourself, to exert all your talents and energies in North Carolina and put down the d—d Whigs. He wants to see you back here again. The beauties of a fine foot and anckle and a luxurious form no longer make the same impression upon him as formerly. He is sinking gracefully into the vale of years; but his will be a green old age. He often speaks of you with great kindness.

I write in the midst of engagements to express my gratification at having opened an epistolary intercourse with a friend whom I so much respect and esteem. When the session is over I shall give you longer letters than I receive: at present I know you will be satisfied with the assurance of my warmest friendship and respect.

James Buchanan.

Hon. Bedford Brown.

REMARKS, AUGUST 9, 1841,

ON THE APPOINTMENT OF CLERKS IN THE LAND OFFICE.[1]

The resolution submitted by Mr. Clay of Alabama, relating to the appointment of additional clerks in the Land Office, and the grounds on which they were appointed, was taken up.

* * * * * * * * * *

Mr. Preston offered the following amendment; which was accepted, as a modification, by Mr. Clay:

And the same information, with regard to such increase or diminution during the four years from 1829, the four years from 1833, and the four years from 1837.

Mr. Buchanan said he did not intend to discuss the diplomatic question. This had been sufficiently discussed already by the Senator from Missouri, [Mr. Benton,] and the Senator from South Carolina [Mr. Preston.]

The Senator from South Carolina and his party, throughout the late canvass, had made the most solemn pledges of retrenchment and reform in the Administration of the Government, should they obtain power. The time had now arrived for redeeming these pledges; and before he took his seat he should contrast their performance with their promises.

At present he would say to the Senator that he thought his speech was made ten months too late. General declarations before the election that Mr. Van Buren's administration had been extravagant beyond all former example, were made and reiterated so often throughout the country, as to have produced a powerful effect among the people. Such declarations could have no influence in this chamber. We had over and over again challenged gentlemen to specify a single particular of extravagance in the conduct of the late Administration, and they had on all occasions, except one, shrunk from the task. At the late session of Congress he (Mr. B.) had called upon the present Attorney General, [Mr. Crittenden,] then an ornament of this body, to point to a single particular wherein this extravagance existed. That gentleman had made the attempt; and with all his well known abilities, had utterly failed. It was not, therefore, by general charges of extravagance, delivered in an *ore rotundo* manner, that the late

[1] Cong. Globe, 27 Cong. 1 Sess. X. 306, 308–309.

Administration could be successfully assailed. No, sir, no; that day had passed by. The Whigs were now in possession of all the public offices. They had the means of detecting every improvident expenditure within their own power; and yet they had not ventured to make any attempt of the kind. This was the highest tribute which could be paid to the economy of the late Administration. He repeated that the time for general charges had gone, and Senators must now descend to particulars, or be utterly disregarded. They could no longer retreat, by referring to millions in the aggregate, when they could not show the misapplication of dollars. The truth was that Mr. Van Buren's administration had demanded no greater appropriations than were absolutely necessary to carry existing laws into execution, and had expended these appropriations with rigid economy.

Although the present Administration had come into power but a few months ago, yet he could, without difficulty, point to individual instances of extravagance which could not be refuted. He would defer this for the present. The resolution of the Senator from Alabama implied a charge against the Treasury Department; and the Senator from South Carolina, instead of attempting to refute this charge, resorts to recrimination against the late Administration, for the purpose of diverting public attention from the present to the past.

A rumor has been in circulation that the present Commissioner of the Land Office, with the approbation of the Secretary of the Treasury, had employed a number of new clerks in his office: and the Senator from Alabama had merely called for the facts. If the rumor be false, the Head of the Department will have an opportunity of explaining it: if true, he ought to have an opportunity of showing, if this be the case, that the increase was necessary. The information called for was in every point of view desirable, and could not, with any reason, have been resisted. But what had the Senate witnessed? One of the most prudent and cautious supporters of the present Administration, [Mr. Smith of Indiana,] doubtless dreading the result, had risen in his place, and with an apologetic preface, had opposed this resolution of inquiry as improper and unnecessary, but without descending to particulars. The Senator from South Carolina, [Mr. Preston,] however, finding that his friend the Senator from Indiana had made a mistake, rose and declared that the resolution ought to pass; but to divert attention from the tender point of the case, proposed an amendment from which it might

be implied that if there had been any increase of clerks, this was justified by precedent, under the late Administration. This was certainly not the best method of proving that the present Administration, so much lauded by the Senator, was superior to the past in retrenchment and economy.

The Senator would derive no consolation from this source. The late Commissioner of the Land Office, who had been removed by the present Administration, had been, according to the acknowledgment of party friend and party foe, one of the most valuable officers under the Government. He was distinguished for energy and application to business. He found a vast mass of old business on hand when he entered the office, and he was determined that this business should be brought up. He prevailed upon his clerks to work day and night, and accomplished his task. In order to effect this purpose, he had been obliged, under an act of Congress, to employ a number of additional clerks. These and others he dismissed after he had no longer any use for them; but the present Commissioner, it was alleged, although the business of the office had been reduced, was now employing supernumerary clerks, for the purpose of rewarding party services.

But it was almost a waste of time to talk of these clerks, while there were so many other charges of extravagance at hand, and, in point of amount, so vastly more important. Congress had, by a majority still available to the party in temporary possession of power, passed a law to borrow twelve millions of dollars, although, even from the facts stated in the report of the Secretary of the Treasury himself, we had present need of no more than six millions. Now, he would defy the Senator from South Carolina [Mr. Preston] to show that the Government wanted even the six millions for any existing claims on the Treasury. Why, then, were the other six millions demanded and granted, if it was not intended that it should be expended? And what was this but extravagance? Was it retrenchment? was it reform? That was too absurd to be pretended. Well, this borrowing bill would have been bad enough in itself, but, in addition to it, there was the tariff bill, to establish a system of taxation in a manner unknown to any other civilized country in the world. By this tariff bill, the merchants of the great commercial cities were to have but two weeks' notice of a change so sudden and so great in the duties paid upon imports. What may be the result?

He (Mr. Buchanan) understood that orders for fall imports, embraced by this bill, had already been sent abroad by our mer-

chants to the amount of several millions of dollars. Before these goods could possibly be received, this tariff bill would go into operation, and these merchants, without any previous notice, would have to pay an ad valorem duty of twenty per cent. on their goods. Due and timely notice had always been given heretofore of these great changes in our tariff. And why is this tax to be put upon these imports, ordered in ignorance of any such tax being likely to affect them, during the balance of the year? Why, merely, that the present reform and retrenchment party in power may have funds in hand for the most extravagant expenditures ever contemplated by any administration of this Government. Well convinced that within ten months the whole system of duties must again be changed, under the compromise act, this reform and retrenchment party is determined to make good use of the intervening time, and of this extra session of Congress, to possess themselves of funds for carrying out the sort of retrenchment and reform they mean to give the country.

Well, in addition to this borrowing bill and this tax bill, a bill has been passed—but there is, thank God! a ray of sunshine penetrating the gloom in relation to it—the object of which is to borrow certainly ten, and most probably sixteen million and a half more, for the purpose of buying bank stock. He had, indeed, hopes of the Executive in regard to that bill—not from any thing he knew personally, but from what he witnessed around him, that the country would be saved from the infliction of this additional contribution to this extravagance fund. But this extra session of Congress was to pass a law, the effect of which would be to raise duties to the amount of eight or nine millions on articles of prime necessity—articles which enter into the daily consumption of the great mass of the people—such as tea and coffee—and which compete in no manner with our domestic manufactures. This, certainly, was a happy beginning for a reform and retrenchment Administration, pledged as the Whig party has pledged itself to the people. If that party goes on at this rate, borrowing and borrowing, and taxing and taxing, this country will soon arrive at the magnificent height of taxation and expenditure which distinguishes the Governments of France and Great Britain. He, (Mr. Buchanan) however, anticipated better things, not from the present Administration, but from the sober second thought of the people themselves.

The Senator from South Carolina [Mr. Preston] had, he (Mr. Buchanan) was glad to see, buckled on his armor once more

for the encounter in defence of his friends. But he hoped, in defending them, he would not sully its brightness by thrusting himself forward to justify these extravagant expenditures.

He, (Mr. Buchanan,) though he did not, when he rose, intend it, had, he believed, a word to say in regard to these diplomatic agencies so much talked of this morning. He believed this Government ought to dispense with the office of Chargé d'Affaires at Naples. The course of our diplomacy always has been one of reciprocity. We ought not to have a diplomatic agent at any court that would not reciprocate the courtesy. We had a claim some years ago to be adjusted at the court of Naples, and for the purpose of accomplishing that object, we sent a diplomatic agent there. That business was, however, adjusted, and our agent was from year to year continued; but the Government of Naples never yet had shown any disposition to condescend to reciprocate the courtesy; and he, therefore, thought our agent ought to be withdrawn. The civility is all on one side. Mr. Van Buren would have recalled him; but he thought it more delicate to leave the question to his successor. A word or two in relation to St. Petersburg. The Senator from South Carolina [Mr. Preston] seemed to think there was no great necessity for a diplomatic agent from the United States at that Court.

He (Mr. Buchanan) thought very differently. He thought the Russian court was one, above all others, where we had occasion for a minister of the first class. It is, in fact, the controlling court of continental Europe. It was at present, and had been for years, friendly to this Government. This friendship should be cherished. There was no foreign court at which an American minister was more kindly, and, perhaps he might say, as kindly treated. If his conduct was proper and circumspect, he was always received as a favored minister. But our commercial interests required it; we had a considerable and profitable trade with the Russian empire, and, in proof of this, he might refer to the returns of American ships which had entered the port of Cronstadt for many years.

There never was a minister at that court who deserved better of his country than the minister whom it had been the pleasure of the Senator from South Carolina, [Mr. Preston,] gratuitously, as he (Mr. Buchanan) thought, to step out of his way to censure. He meant Mr. Cambreleng.

[Here Mr. Buchanan pronounced an eulogium on Mr. Cambreleng—not distinctly heard in the gallery.]

Mr. Preston denied that he had intended any disrespect to Mr. Cambreleng in what he had said of him.

Mr. Buchanan said he had been one of those unfortunate individuals whose good or bad fortune it had been to be a foreign minister, and that, too, at the court of St. Petersburg. It was an office which sought him; he had never sought the office. He never cared much about foreign honors, and never sought the glory of dangling after stars and garters. He went to the court of Russia upon a special mission. For twenty years this Government had been endeavoring to conclude a treaty of commerce with Russia, and had always been unsuccessful. It had been his good fortune to conclude this treaty; and this he attributed much more to the kindly feelings of the Government of that country than to any merit of his own. It was, he believed, the only general commercial treaty which Russia had at the time with any power, and Lord Durham then failed in obtaining a similar treaty for England. When he went upon this mission, he had made it a special condition with the President that he might return home as soon as the treaty was made, or that it was ascertained it could not be made. He had, therefore, been at least the humble agent of doing something beneficial for his country in Russia.

The Senator from South Carolina, [Mr. Preston,] as times go, has a right to cast his eyes upon a foreign mission. He (Mr. Buchanan) could only wish that he might have an opportunity of judging for himself what it is to be a foreign minister. His (Mr. Buchanan's) own experience was not, he confessed, such as could justify him in recommending it as a very enviable distinction. He really believed, when the Senator should go abroad, one of these days, as he no doubt would, that he would find this thing of being an Envoy Extraordinary and Minister Plenipotentiary at a foreign court, was not quite the thing it had been cracked up to be. It looks very dazzling at a distance; but when you come to approach it, you find yourself disappointed. If the Senator has a fortune of ten or twelve thousand dollars a year, in addition to his salary, he may, no doubt, enjoy a good deal of court life, such as it is.

His salt works on the Kanawha, Mr. B. hoped, would stand large remittances; and if so, he might get along pleasantly enough. He will find many ways of spending twice the amount of his salary, and that without the least difficulty whatever. But it was his (Mr. Buchanan's) conviction that when the Senator tries it once, he will not be very anxious for a second trial.

REMARKS, AUGUST 12, 1841,

ON THE DISPOSITION OF THE PUBLIC LANDS.[1]

Mr. Sturgeon of Pennsylvania, after stating that he was instructed by his State Legislature to support a distribution of the proceeds of the public lands on certain conditions, moved an amendment of the bill in compliance with the instructions. The amendment proposed to strike out the ten per cent. given to the new States.

Mr. Walker resisted this amendment with much earnestness, and demonstrated that the new States were entitled, not only to ten, but to twenty per cent. from the rapid increase of their population.

Mr. Buchanan said he should vote for the amendments proposed by his friend and colleague, [Mr. Sturgeon;] and if they were adopted, he should then vote for the bill in obedience to the instructions of the Legislature of Pennsylvania. These instructions were plain and explicit on their face. There could be no doubt about the import of the language which they employed. Mr. B. then read these instructions, as follows:

Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met: That our Senators in Congress be, and they are hereby, instructed, and our Representatives requested, to resist any and all attempts, under what pretence soever the same may be made, *to deprive the people of this State of their just proportion of the common inheritance in the public lands;* and that they be, and are hereby further instructed and requested to introduce and advocate the passage of a bill providing for the distribution of the proceeds of the same among the several States *in the ratio of their federal representative population under the census of one thousand eight hundred and forty.*

They were thus commanded to resist every attempt to deprive Pennsylvania of her just proportion of the public lands. And what was that just proportion? She had stated it in clear and explicit terms; and had asserted her claim, in the most solemn form, to such a portion of the proceeds of these lands as her Federal representative population would bear to the Federal representative population of the whole Union, under the late census. Was this bill, then, in accordance with these instructions? Most certainly it was not. On this question there could not be two opinions. The population of the whole Union, under the census of 1840, a little exceeded seventeen millions. That of Penn-

[1] Cong. Globe, 27 Cong. 1 Sess. X. 328–329.

sylvania was 1,724,033. According to the instructions, therefore, she would be entitled to receive one-tenth of the proceeds of the public lands. Did the bill give her that proportion, or any thing like it? because he would not cavil about trifles. In the first place, it gave to each of the new States now in existence, or which might hereafter be admitted into the Union, ten per cent. of the nett proceeds of the sales of the public lands within its own limits, before any dividend could be made of the remaining ninety per cent.; and in addition to this, it granted five hundred thousand acres to each of these States for purposes of internal improvement. The manner in which these provisions would operate, could be best illustrated by an example. Let us take the State of Arkansas. There were within her limits 26,500,000 acres of public land remaining unsold. Her Federal representative population was 97,574, or about the one-eighteenth of the Federal representative population of Pennsylvania. Under this bill, instead of receiving but one acre of the land within her territory for every eighteen to which Pennsylvania was entitled, she would receive 815,000 acres more than Pennsylvania. A federal representative population of 97,574, constituting the State of Arkansas, would receive of the lands in that State, 815,000 acres more than a Federal representative population in Pennsylvania of 1,724,033. This fact was established by figures, which could not lie. To Arkansas there was granted under the bill:

	Acres.
One-tenth of the land, or rather nett proceeds of it, within her limits, equal to	2,650,000
Donation of	500,000
	3,150,000

Pennsylvania will receive as follows:

Whole number of acres remaining unsold in Arkansas	26,500,000
From which deduct the before mentioned donation to Arkansas	3,150,000
	23,350,000

Pennsylvania would receive under the bill one-tenth of the remainder—or 2,335,000 acres; and this would be 815,000 acres less than the grant to Arkansas. He admitted that this was the strongest case of inequality which could, at present, be presented under the bill; but in all the new States this inequality existed in a greater or less degree, as their population was more or less numerous. In every new State, which might hereafter be admitted into the Union, this inequality would be even greater than in the case of Arkansas. He stated these facts merely for the

purpose of showing that to vote for this bill in its present form would be an express violation of his instructions, which required him to support a bill providing for the distribution of the proceeds of these lands among the several States, not according to the rule which his own discretion might dictate, but "*in the ratio of their Federal representative population under the census of one thousand eight hundred and forty.*" Should the bill be so amended as to conform to this instruction, it should receive his vote; but not otherwise.

Instructed as he was, and unable to express his own opinions without violating these instructions, he had purposely forborne from entering into the general discussion. He would, however, submit another remark, which might explain his future votes. The Legislature had instructed him to resist all attempts to deprive the people of Pennsylvania of their just proportion of the public lands. Without any instruction, he should have acted in this manner: and he must say that, if the bill now before the committee were unequal and unjust, the amendment which the Senator from South Carolina [Mr. Calhoun] had given notice that he would offer, to cede the public lands to the new States, on certain conditions, was still more unequal and unjust towards the old States; and, with or without instructions, it should meet his decided negative.

Had he been at liberty to act upon his own judgment, he should have most cheerfully voted for the amendment of the Senator from Missouri, [Mr. Linn,] pledging the proceeds of these lands as a sacred fund for national defence. There was a peculiar propriety in devoting these lands, which had been purchased by the valor and blood of our ancestors, to the maintenance of the national safety and national glory of their descendants. With this money you might increase your navy, complete your fortifications, and prepare for war; and you would thus distribute its benefits more equally and justly among the people, than you could do in any other manner. He was sorry, therefore, that his instructions had compelled him to vote against this amendment.

Mr. Walker again addressed the Senate in opposition to the amendment, and was followed by

Mr. Sevier, who delivered his views at considerable length in opposition to the distribution policy in general, and the amendment in particular.

Mr. Clay entreated the Senators from Pennsylvania to re-

consider the decision, and see if they would, in reality, comply with the intentions of their Legislature in voting against the bill. Did that Legislature contemplate so impracticable a bill as these amendments would render it, when they required them to support a distribution bill? He moreover called on them to reconsider their decision, as he was afraid the bill would be lost without their votes; whereas, with them, it might be passed.

Mr. Buchanan said he had turned to his friend from Missouri [Mr. Linn] just before the Senator from Kentucky had risen, and expressed his astonishment that he [Mr. Clay] should have permitted any legislative instructions to be presented to the body, which he might suppose to be disagreeable to the Senators instructed, without interposing his opinion and advice. He believed that the Senator had never suffered such an occasion to pass without interfering in this manner between Senators and their constituents. He thanked him for his kind offices and for the interest which he had manifested in his (Mr. B.'s) welfare. He would be pleased to have the Senator as a friend upon terms of perfect equality; but not as a master. We had witnessed enough to convince us that he was a severe master.

Mr. Clay. Ask Charles if I am not a kind master.

Mr. Buchanan said, Charley had been so often brought before the Senate and the country by the Senator that he was now almost as notorious as his master. He would reciprocate the kindness of the Senator, and in turn give him a little good advice. He [Mr. Clay] had already said enough about Charley; and if he wished to spare himself and his political friends from the shafts of ridicule which were aimed at him and them in the public journals all over the country, he would never hereafter, on this floor, mention the name of that well known individual.

He (Mr. B.) intended, in good faith, either to obey instructions or to resign his seat. His constituents must, by this time, have been fully convinced of his fidelity to this doctrine. He had often manifested his faith by his works; and never upon a more trying occasion than when he had voted at the present session in favor of the repeal of the Independent Treasury. Such was the just devotion of the Democracy of Pennsylvania to this wise and salutary measure, that he had subjected himself to some reproach among his own political friends on account of this vote, although none of them could deny that he had acted in obedience to one of the fundamental doctrines of the party to which he and they belonged.

The Senator [Mr. Clay] alleges that his land bill had been before the country for years, and that it ought to be intended that the Legislature meant to instruct us to vote for it. Mr. B. admitted that the provisions of this bill were as familiar to the people and to the Legislature of Pennsylvania as household words. From this fact, however, he would draw a directly opposite inference. In such a case, he would ask the Senator why the Legislature, if they had so intended, did not instruct him to vote for this bill? That would have been the direct and natural course to the object in view. It would have been quite as easy for them to have directed him to vote for a distribution of the proceeds of the public lands among the several States according to the well known provisions of the Senator's bill, as to have commanded him to vote for such a distribution among these States, *"in the ratio of their Federal representative population under the census of one thousand eight hundred and forty."* When the Legislature had thus declared one thing in clear and precise language, how could he say that they had intended another? Had they instructed us generally to vote in favor of distributing the proceeds of the public lands among the several States, the Senator's argument would have had much force, because it might then have been presumed that they intended to refer to the Senator's bill. But there could be no inference, no averment against the record. The language employed by the Legislature could receive but one construction. The Senator's bill distributed these proceeds in one manner, and the instructions commanded us to vote for this distribution in another and entirely different manner.

It was a most desperate undertaking to contend that the bill now before the Senate was substantially in conformity with his instructions. The Senator had not attempted to answer—no man could answer—the comparison he had made between Pennsylvania and Arkansas.

In order to do this, he must prove that, to give Arkansas, with a population of only ninety-seven thousand five hundred and seventy-four, three million one hundred and fifty thousand acres of the public land within her limits; whilst Pennsylvania, with a population of one million seven hundred and twenty-four thousand and thirty-three,would receive but two million three hundred and thirty-five thousand, would be a distribution in proportion to the ratio of their respective federal representative population. This was impossible. Under the Senator's bill, independently of

the gift of five hundred thousand acres to each of the new States, ten per cent. of the nett proceeds of the remaining lands were to be deducted for their benefit, and they would afterwards receive, in addition to all this, a fair proportion, according to their population, of the remainder. Under the estimate which had been made on both sides of the Senate, the nett annual proceeds of these lands would, for some time, amount to about three millions of dollars. Three hundred thousand dollars of this fund, or nearly that amount, was first to be granted as a gratuity to the new States; and by this grant the share of Pennsylvania would be reduced from three hundred to two hundred and seventy thousand dollars per annum. It was not for him to say whether this would be just or unjust. It was sufficient for him to know that it was not in accordance with the instructions of those to whom he held himself responsible.

Should he vote for the bill in its present form, how could he defend himself hereafter? Suppose a political enemy in the Legislature, finding that the bill was, as it certainly would be, unpopular, should charge him with having violated his instructions, and denounce him for having supported it; what answer could he make to such a charge? How could he justify such a vote to his political friends at home, who were almost unanimously opposed to this bill? Next to the approbation of his own conscience, he valued their regard; and what could he answer to them if he should vote for this bill, and thus disregard the plain language of his instructions? How would he appear upon the records of the Senate in after time? Could he shield himself from the responsibility of supporting this obnoxious measure by instructions which clearly did not embrace the case?

He would be sorry if the Legislature had mistaken their own meaning, and voted instructions which they did not intend. He should not have felt himself embarrassed in the slightest degree, had they directed him to vote for his [Mr. Clay's] land bill. It was too much, however, to expect that he should presume, against their own language, that they had committed a mistake, and assume the responsibility of correcting it. So far as he had learned, this was not the case. A Pennsylvania Senator, who had voted for these instructions, and had been present at the debate on this subject in the other House of Congress, came voluntarily to him a few days ago, and assured him, (Mr. B.) that he never would have voted for instructions in favor of Mr. Clay's bill, had the case been presented. It was, also, his opinion

that the language of the instructions truly conveyed the meaning of the Legislature. But whether or not, he could not go behind the instructions themselves, to seek after a meaning which their very terms disavowed.

The Senator had informed my colleague and myself that we were assuming a heavy responsibility, because the land bill might be defeated by our votes. Sir, said Mr. B., although I never court responsibility, yet I trust I shall never shrink from it when duty imposes it upon me. It has been my purpose throughout my public life to march firmly along the direct path of duty, and leave the consequences to God and my country. Far from dreading responsibility upon this occasion, he would consider it one of the proudest days of his life, if he should be the instrument of defeating this bill under the existing circumstances of the country. Although he felt no constitutional scruples, he should very much doubt the policy of the measure, even if no foreign war threatened and the Treasury could spare the money. But now when our peaceful relations with the most powerful nation on the earth were seriously in danger, and when the national Treasury was nearly bankrupt, it did appear to him to be a most suicidal policy to give to the States the money which ought to be appropriated by Congress to place the country in an attitude of defence. But the absurdity of the measure at this time did not stop here. This bill was made the pretext or the reason why we should pass the tax or revenue bill. The deficiency created by the one bill, it was said, must be supplied by the other. And how supplied? By a tax of twenty per cent. upon coffee and tea—articles which the habits of the people of Pennsylvania had rendered necessaries of life, and which entered largely into the consumption of every family, poor or rich. While this bill thus taxed coffee and tea, it left railroad iron imported for the use of corporations free of duty; and yet, strange as it might seem, a Pennsylvania Senator was asked to violate the express language of his instructions, and vote for the land bill, which, it was avowed, would render this odious tax bill absolutely necessary. The annual distribution under the land bill would be equal to but a little more than an eleven penny bit to each individual in Pennsylvania; whilst the tax to which each of them would be subjected, in consequence of its passage, on the articles of coffee and tea alone, must considerably exceed that amount. This truly was wise legislation!

Even if it were possible that the Legislature could have

mistaken their own meaning in these instructions, he was glad that the time would soon arrive when they might correct this mistake, if the bill should not become a law at the present session. This bill would not in any event go into operation until the first day of January next; and early in that month they might instruct him to vote for it: and in this they should be obeyed.

This special session had not been anticipated; and at the October election, the people would have an opportunity of expressing their opinion on these two measures, which were, from the present condition of the Treasury, inseparable—he meant the land bill and the tea and coffee tax bill.

The Senator thought that his colleague [Mr. Sturgeon] would obtain but few votes for his amendment: and this was very probable. The Whig Senators would doubtless all vote against it, whether from the new States or the old. The Democratic Senators from the new States would all vote against it, because it would reduce their division of the money to be distributed under this bill, to the proportion to which they were entitled by their population under the late census. He presumed, however, that every Democratic Senator from the old States would vote in favor of an amendment which would secure to their constituents a fair, and no more than a fair, proportion of the proceeds of these lands.

Mr. Calhoun said he would not have risen, but for what he thought the rather unkind remark of the Senator from Pennsylvania.

Mr. Buchanan. What remark?

Mr. Calhoun. The remark that the bill to dispose of the public lands to the States in which they lie was more objectionable than the measure now before the Senate.

Mr. Buchanan. That is my opinion.

Mr. Calhoun. My opinion is directly the reverse, and I will be prepared to demonstrate, at the proper time, that the Senator is entirely mistaken.

REMARKS, AUGUST 16, 1841,

ON THE OCCASION OF PRESIDENT TYLER'S VETO OF THE BANK BILL.[1]

August 16, 1841, there was read in the Senate the message of President Tyler, vetoing the bill to incorporate the Fiscal Bank of the United States. The moment the reading was concluded, the excitement being intense, manifestations of applause and of dissent were heard in the gallery. Mr. Benton moved that the sergeant-at-arms be directed to take into custody the persons who had hissed at the reading of the President's message.

Mr. Buchanan said this was a very solemn and momentous occasion, which would form a crisis, perhaps, in the politics of the country; and he should hope, as he believed, that every American citizen present in the galleries would feel the importance of this crisis, and feel deeply sensible of the high character to which every man blessed with birth in this free country should aim. He heard, distinctly heard, the hiss referred to by the Senator from Missouri, [Mr. Benton,] but he was bound to say it was not loud and prolonged, but was arrested in a moment, he believed partly from the Senator rising, and partly from the good sense and good feeling of the people in the galleries. Under these circumstances, as it only commenced and did not proceed, if he had the power of persuasion, he would ask the Senator from Missouri to withdraw his motion.

[Mr. Benton. I never will, so help me God!]

He thought it better, far better, that they proceed to the important business before them, under the consideration that they should not be disturbed hereafter; and if they were, he would go as far as the Senator from Missouri in immediately arresting it. He would much rather go on with the business in hand.[2]

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[1] Cong. Globe, 27 Cong. 1 Sess. X. 338.

[2] It seems that the hisses were not heard by all the Senators, but were heard by one of the officers of the Senate, who seized the offender and detained him in the room of the sergeant-at-arms. On learning that this had been done and that the offender was "penitent and contrite," Mr. Benton, the object of his motion being accomplished, moved that the offender be discharged, and the President of the Senate so directed.

REMARKS, AUGUST 18, 1841,

ON THE BANKRUPT BILL.[1]

Mr. Buchanan said, from the tone of the letters he had received from politicians differing with him, he should advise his friend from Mississippi [Mr. Walker] not to be quite so soft as, in his eagerness to pass this bill, to agree to this amendment, postponing the time for it to take effect to February, as it would be repealed before its operation commenced; although it was now made a price of the passage of the distribution bill. He felt not a particle of doubt but there would be a violent attempt to repeal it next session.

[Mr. Benton. They will attempt to repeal it in ten days after the commencement of next session.]

Mr. Buchanan. As a party man, he would not want better capital than this bill to work on. His great objection to this bill was, that it would encourage the wild spirit of speculation to which they were exposed, and which in this growing country ought rather to be restrained. It would have the effect of driving speculation to the highest madness, by informing every man, in case he failed to win the golden prize, he might blot out his obligations, and commence again. He was opposed to the amendment.

Mr. Walker said when his friend from Pennsylvania spoke of his being "soft," he did not know whether he referred to his head or heart. But he was not soft enough to run the chance of defeating this bill by sending it back to the House. The Senator's arguments were rather "softer" than usual, for if it were to be repealed, in case the time before its going into operation were extended, it would be an additional reason why the Senator should support the amendment.

Mr. Morehead asked, in case they postponed the operation of the bill, to give an opportunity to carry the measure to the people, and give the Congress a chance to repeal it, if that was "goading on the Senator to madness." If it were repealed, it would be because the people willed it, and, if so, he would venture to say that the Whig party would concur in it. He was glad that the amendment was adopted. If the people of the United States did not want a Bankrupt bill, they would, by this amendment, have an opportunity to repeal it; and they would go before

[1] Cong. Globe, 27 Cong. 1 Sess. X. 348.

the people with it, and they might come here on the first Monday in December and have an issue on it, if they wished.

Mr. Buchanan said the Senator from Kentucky [Mr. Morehead] had misunderstood him. He had remarked that the operation of a bankrupt law generally, would have a tendency to goad on the spirit of speculation to madness. He had stated that those who would "logroll," and vote for the distribution bill to get the bankrupt bill, might be deceived. The distribution bill went into operation, and the bankrupt bill was to be postponed to February, and before that time might be repealed.

REMARKS, AUGUST 24, 1841,

ON THE REFERENCE OF THE NEW BANK BILL.[1]

A message was received from the House, announcing that it had passed "An act to provide for the better collection, safekeeping, and disbursement of the public revenue, by means of a corporation to be styled the Fiscal Corporation of the United States." Mr. Berrien moved that the bill be referred to a select committee; and Mr. Clay seconded the motion.

Mr. Buchanan said he would vote for the motion to refer this bill to a select committee. He felt too great a regard for the Senator from Kentucky to force *this thing* upon the Committee on Finance, of which he was chairman. A correct judge of human nature had said that there was but one step between the sublime and the ridiculous. The great Whig party had taken that step, when they determined to create this being, called "The Fiscal Corporation of the United States." If this thing had derived its name from its nature, it ought to have been called "The Kite Flying Fiscality." The great Whig party had descended through different gradations until they at length sunk to this Fiscality; and he, for one, should certainly not, by his vote, subject the Senator to the mortification of becoming its sponsor.

The motion having been agreed to, the bill was referred to a select committee of five, consisting of Mr. Berrien, Mr. Evans, Mr. Archer, Mr. Morehead, and Mr. Huntington.

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[1] Cong. Globe, 27 Cong. 1 Sess. X. 372.

REMARKS, AUGUST 28, 1841,

ON THE FORTIFICATIONS BILL.[1]

An amendment was offered appropriating $75,000 for the purchase of a site for a Western, Southwestern, or Northwestern armory. Mr. Clay of Kentucky opposed the amendment, because of the expense involved, and because the selection of the site was left to the President.

Mr. Buchanan thought that, in a body like the House of Representatives, (composed as it was of so many members, all naturally desirous to have the location where it would be most desirable to their constituents,) it would be perfectly ridiculous to suppose that a location could be made. He was in favor of insisting on the amendment, leaving the selection to Executive discretion.

Mr. Clay said that the West had been harped upon, as though this was a great boon to the West, when every Whig Representative *except two* had voted against it. He had no particular objection to Pittsburg; but in case of a certain horrible event, which he did not apprehend, but which sometimes forced itself on the imagination, where would be the armory? At Pittsburg, an eastern city at the head of a river which had been said by Mr. Randolph to be dried up all summer and frozen up all winter. He was opposed to it from the state of the Treasury—he was opposed to it from the enormity of the price—he was opposed to it because, instead of deciding by Congress where the location should be, it would, if left to the Executive, be left to the head of a bureau.

Mr. Buchanan said, somehow or other, it was always his fate to be drawn into an argument with the Senator from Kentucky, when he did not anticipate it. With regard to the Whigs voting against the measure, it might be a very good argument for his political friends, but a very bad one for his, (Mr. B.'s,) but if they went in opposition to the Whigs, they could not be far wrong. Why had the Senator assailed Pittsburg? He (Mr. B.) said nothing about Pittsburg.

Mr. Clay. No; but you were thinking about it.

Mr. Buchanan. No, I was not; but I was thinking of a great Whig meeting which was recently called there, for the purpose of denouncing their representative in the other end of

[1] Cong. Globe, 27 Cong. 1 Sess. X. 397.

the Capitol for voting against a certain Fiscality, and instead of censuring, two-thirds of the meeting approved of that vote, thus sustaining the veto of President Tyler in advance. Was Pittsburg to be denounced because the Senator from Kentucky feared that the Executive might, in his discretion, select it for a site for a Western armory? He had never been in favor of trusting too much to Executive discretion; but surely the Senator could place this much confidence in his own President.

REMARKS, AUGUST 28 AND 30, 1841,

ON THE DUTY ON IRON.[1]

[Aug. 28.] Mr. Buchanan said he was induced to offer an amendment. Within the limits of the compromise act, he would protect the manufactures of the country. It was well known that there was iron in Pennsylvania equal to the best English iron for railroads, enough indeed to supply the whole world. The amendment he would offer he desired to come in at the 5th section of the bill.

The effect of this amendment was to repeal all the laws which admitted iron for railroads free of duty.

Mr. Clay said he did not know that he should have any objection to this amendment. The policy was, when there was a large amount of revenue on hand, to admit this article free of duty for the encouragement of railroads. But as there was a large quantity of iron in this country, and extensive manufactures, he thought he should support the proposition, particularly as it would add very considerably to the revenue.

Mr. Buchanan would support it if there was no iron in the country. Was there any reason why corporations should have this article free of duty, while the farmer was subjected to a tax on the iron used in his ploughs? In Pennsylvania there were immense beds of this iron ore, besides the coal, and he hoped that a duty would be placed on railroad as well as on any other iron.

[Aug. 30.] Mr. Buchanan offered the amendment, of which he had given notice, to repeal the act of 14th July, 1832, which released from duty iron which was used in the construction of

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[1] Cong. Globe, 27 Cong. 1 Sess. X. 400, 402, 403.

railroads on inclined planes, and to provide that there shall be levied on railroad iron hereafter imported, a duty of 20 per cent. ad valorem, provided that it shall not operate on iron already imported.

Mr. Cuthbert wished the Senator to postpone the amendment, to afford him an opportunity for its examination, as it was a matter in which Georgia was deeply interested.

Mr. Buchanan would not feel justified in consenting to a postponement. The amendment could be discussed now and voted upon, and some days would intervene before the vote would be taken in the Senate, on concurring with the committee, should the amendment be adopted.

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Mr. Buchanan said when he had proposed this amendment, he had anticipated some little opposition to it. We were sometimes strangely warped in our judgments by our interests; but unless he was very much so, this was as appropriate and as just an amendment as could be offered to this bill. The policy of the bill was to raise the duty on imports to 20 per cent. giving such incidental protection within that limit as could be afforded; and now the proposition to place railroad iron on the same footing as other articles, meets a determined resistance. He thought the bare statement of the question was sufficient to show the justice of the amendment. No other reason could be assigned for the exemption of this article from duty, but that it would enure to the benefit of corporations—and States, if you please; while the farmers and the mechanics of the country were taxed on all the iron which they used. If he had a discretion in this matter, his wish would be to protect our manufactures by imposing a duty within the range of 20 per cent. on such articles as come in competition with them; and next he would tax luxuries; but such were the necessities of the Treasury that there was no discretion in the matter; all articles were run up to 20 per cent. and no discrimination could be made, except, perhaps, for articles of general consumption, such as tea and coffee, and these, he thought, ought to be exempted.

Mr. B. then went into an examination of the capacity of this country to furnish any amount of railroad iron that might be required. The process of smelting iron with anthracite coal was now perfectly understood in Pennsylvania, and in the mountainous region the coal and iron lie in close contiguity. The

largest iron works in the United States were now erecting in Columbia county, and it was among the purposes of their erection to enter largely into the manufacture of railroad iron.

TO MESSRS. BLAIR AND RIVES.[1]

SENATE CHAMBER 31 August 1841.

GENTLEMEN/

In your report of the debates in the Senate, I would thank you hereafter to omit what I may say; & in what is called the Analysis, please merely to mention that I took part in the debate, either on the one side or the other, without anything more. With one or two exceptions, it would almost seem that the part which you have attributed to me in debate, since the commencement of the present session, when compared or rather contrasted with what has been attributed to others, has been intended rather as a foil for them than to communicate my opinions to the public. I feel no desire whatever that you should relax your efforts to build up the reputation of the three or four Democratic senators to whom your paper has been devoted & for whom I entertain the highest regard. All I complain of is that this should be done at the expense of the other Democratic Senators. When I deem it of sufficient importance, I shall get a reporter to report my remarks & request their publication in the Globe when it may be convenient.

Yours very respectfully

JAMES BUCHANAN.

MESSRS. BLAIR & RIVES.

FROM MR. BLAIR.[1]

SENATE CHAMBER
Aug. 31: 1841.

DEAR SIR

I should not reply to your note but for the intimation, that I direct my labors to build up the reputation of some three or four Senators, by suppressing the share you take in the debates. You do me the greatest injustice

[1] Buchanan Papers, Historical Society of Pennsylvania.

in the supposition. The Senators to whom you allude, from time to time, furnish briefs of their remarks, (as was the case of one of them yesterday) for the Sketches and Analysis, and they are inserted, as whole speeches prepared by you have been, in the editorial notice. So far from being capable of doing you injustice by indulging a preference towards others, my personal partialities have all been in your favor. I felt towards you, as to one to whom I was indebted for particular kindnesses and you were on that account a favorite in my family, among all the prominent Senators. But I am not of a temper or in a condition to become the Jackall of any aspiring man. I am the slave of the cause in which I am embarked and shall serve it with the best ability I have. I will continue to draw to it, from day to day, all the aid that I can from the minds of every Republican of the Senate without regard to the jealousies of any. As to what may fall from you, I shall allow you to judge how & when it may be best used for the public service.

If what you say is furnished to me, *in brief*, so as to be suitable for the analysis of the daily Globe, or the Sketches of the Semi-Weekly, they will be promptly & cheerfully inserted.—If as finished Speeches, they will be immediately put upon the Calendar and appear in all the editions of the Globe, as soon as they can, in justice to the claims of others.

Your v. ob. se.

F. P. Blair.

REMARKS, SEPTEMBER 1, 1841,

ON THE DUTY ON FOREIGN PRINTS AND PICTURES.[1]

Mr. Buchanan presented the memorial of the "Artist's Fund Society of Philadelphia," requesting Congress to impose a duty on the importation of foreign prints and pictures; and, also, the memorial of the "Artist's and Amateur's Association of Philadelphia," making a similar request.

Mr. B. said he was happy to be able to inform these highly respectable societies that, under the Revenue bill, as it now stands, foreign prints and paintings would be subject to a duty of twenty per cent. ad valorem, which was as high a rate of duty as would be imposed upon any imported article after the 30th June, 1842. It was true that an exception was made in favor of literary or philosophical societies, or societies for the encouragement of the fine arts, &c. &c. which might still import prints and pictures free of duty. To this exception he felt confident the memorialists would not object.

The memorials were laid upon the table.

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[1] Cong. Globe, 27 Cong. 1 Sess. X. 413.

SPEECH, SEPTEMBER 2, 1841,

ON THE BILL TO ESTABLISH A "FISCAL CORPORATION OF THE UNITED STATES."[1]

Mr. Archer having concluded—

Mr. Buchanan rose in reply, and addressed the Senate nearly as follows:

The Senator from Virginia concluded his remarks, by telling us that the Whig party had done a great deal at this extra session. I admit they have done much: and they have done one thing for which the country ought to be grateful—they have *done for* themselves. [A laugh.] The gentleman quoted to us, on the subject of our abstractions, a couplet from Hudibras; but he stopped with the first two lines. Let me supply the couplet immediately following, which the Senator did not quote; but which, I think, applies quite as well to the pretended difference between the present bill and that which the President has returned to us with his veto:

> "What mighty difference can there be
> 'Twixt tweedle-dum and tweedle-dee!"

Before I conclude, I think I shall be able to show that, if the President would have deserved the condemnation of all honest men, had he approved the bill to establish a Fiscal Bank: having rejected that, he will deserve, not only the condemnation, but the contempt and ridicule of all mankind, if he shall sign the bill to create this "Fiscal Corporation." But, while I express this opinion, I do not desire or intend to say any thing which shall wound the feelings of my honorable friend from Virginia, [Mr. Archer,] for I can in all truth and sincerity declare, that, if there is such a thing in the entire world of politics as an honest man, (and I doubt not but there are many,) I believe my friend is that man. I think, indeed, that he has, by some means, got himself involved in a strange delusion; but, if he has changed his opinion, I certainly am not to blame for not changing mine.

I desire to say a few things concerning this Bank, before execution shall have been done upon it either by the President or the Senate; for I believe no human being anticipates that such a thing as the present bill will ever become the law of the land. I believe, further, that if all hearts here could be searched, it would be found that this bill is not what gentlemen on either side desire.

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[1] Cong. Globe, 27 Cong. 1 Sess. X., Appendix, 340–346.

A word or two as to the constitutional argument of the Senator from Virginia. If I rightly apprehended the position he took, his character as a State Rights man is gone forever. The Senator from South Carolina [Mr. Calhoun] need now no longer apprehend any thing from the Senator's competing with him for the palm; he has avowed himself a consolidationist, and one of the most thorough-going of the sect. The Senator says that the Government of the United States has a right to purchase bills of exchange; that it may, if it pleases, instead of "wagoning" the specie (to use the Senator's phrase) to the head-waters of the Missouri or Mississippi, purchase a bill, which will accomplish the same purpose. Undoubtedly it may; though, in practice, this is rarely, if ever, done. There is not the least difficulty in the Government's transferring its funds to our extreme western frontier; because even the very Indians will accept a Government bill drawn on New York, and would prefer it to specie, knowing that it can be sold at a premium anywhere in the Far West for gold and silver. As the next step in his argument, the Senator tells us that it is perfectly incontrovertible that, having a right over a part, the Government must have a right over the whole: that if it possesses the power, it possesses the whole power: that a constitutional power cannot be broken into fragments; but if the power be given at all, the whole power must be given. And so, because Government may purchase a bill of exchange to discharge its obligations on the Western frontier, it can therefore set up a bank of exchange, with a capital of fifty millions of dollars, and confer on it the power of dealing in bills, not only for the purposes of Government, but for the use of all the people of this country! A proposition like this needs only to be stated. The men who framed the Constitution of the United States were jealous of federal power, and they dealt it out to Congress with a parsimonious hand. What do they say in the Constitution? Any thing which gives the slightest sanction to the Senator's doctrine? Not at all. The power to transfer the public funds from one part of the country to another, by bills of exchange, is palpable. Nobody denies it. But that it should follow, as a necessary inference, that it has power to deal in exchange to every extent; to buy and sell foreign bills between this country and Europe, and bills between State and State, in which it has no interest, is a position such as I never heard, in all my life, from the greatest and most avowed consolidationist. Why, at this rate, an ingenious expositor may make the Consti-

tution mean anything or nothing. But there is no foundation for any construction or inference in the case. The United States may, confessedly, buy and sell bills of exchange as a means of transferring its funds: this it has done uninterruptedly and without objection for the last fifty years. But, before my astute and very ingenious friend from Virginia made the discovery, I believe it never was dreamed of that such a simple power as this laid a foundation for the erection of an immense bank of exchange.

If I understood the Senator from Georgia [Mr. Berrien] aright, he advanced a constitutional opinion such as I never heard before, save from one other gentleman, [Mr. Webster,] that the power "to regulate commerce with foreign nations and among the several States, and with the Indian tribes," conferred upon Congress power to create a paper currency, as a medium with which to conduct commerce. The present Secretary of State did advance, some years ago, this same latitudinous doctrine. I then contested it; and I am happy to say that the distinguished Senator from Kentucky [Mr. Clay] concurred with me in opinion. Congress has power to regulate commerce: therefore, says the Senator from Georgia, Congress possesses power to create a paper currency, with which commerce may be conducted. This is the doctrine. Yet even this is not quite so strong as the position of my friend from Virginia [Mr. Archer.] A power to "regulate," means a power to "create!" Were any two words in the English language ever better understood than these? To "regulate" is to prescribe rules for conducting something that already exists. To "create," is to bring that into existence which before had none. We know that the Constitution had its origin mainly in the general wish to regulate with uniformity the commerce of this country. Previous to its adoption, the different States of the Confederacy had established different regulations, which they were always changing; and hence no foreign Government would form commercial treaties with the then Government of the United States, which it could not enforce. Besides, the commercial regulations of the different States were constantly in conflict with each other. To remedy these evils, power was conferred on the Federal Government to establish uniform rules in relation to commerce, which should apply alike to all the States. Up to the year 1839, I never had imagined that any human being could be found who would contend that this simple power of prescribing rules for regulating our foreign and domestic commerce involved the tremendous power of creating a Bank with

a capital of fifty millions of dollars, and with power to issue a paper currency sufficient to supply the demands of the country. But the doctrine was then advanced; and I advise the friends of a National Bank to adhere to it. It answers their purpose much better to derive their banking power, as the Senator from Massachusetts then did, from the power to regulate commerce, than as the Senator from Kentucky [Mr. Morehead] now does, from the power to collect, transfer, and disburse the public revenue. To derive it as an inference from the latter power, as John Marshall has done, is to involve it with a question of fact, which might prove troublesome to its advocates. On their own showing, the previous question must first be settled, whether a Bank be necessary to the collection, transfer, and disbursement of the public revenue. But this vast commercial power leaves all limitations behind. It mounts at once into the air, and soars aloft to any height which Bank advocates may deem necessary to the accomplishment of their designs. If they want to create a paper currency, I tell them that the commercial power is a better basis on which to place it than the power over the revenue.

And here let me add one word to my friend from Kentucky, [Mr. Morehead.] He treated us to a long, eloquent, and able speech, in reply to one I had previously made; but this reply was unfortunately confined to a single branch of a single point in my argument; and neither he nor any other Senator has yet so much as touched any one of the other points which I made. The Senator's whole speech was directed to the object of proving that the constitutionality of a Bank of the United States was a settled question. Now, admitting, for argument's sake alone, that the Senator succeeded in establishing his position that this is a settled question: I ask, how has it been settled? That Congress has the absolute, unconditional power to create, at pleasure, a Bank of the United States? Not at all; but that if Congress shall believe a Bank to be a necessary agent in collecting, transferring, and disbursing the public revenue, the Judiciary will not undertake to decide this question of fact differently, and declare the law to be unconstitutional, for this reason alone. Now, John Marshall himself might, if a member of Congress, give his vote against the creation of a Bank, not believing it in fact to be necessary to execute the revenue power of the Government; and yet act in perfect accordance with every principle of his own decision in the case of McCulloch against the State of Maryland. That decision amounted only to this: that the court would not

rejudge the discretion of Congress; but it necessarily referred the constitutional question back to the conscience of each member about to vote for or against a new Bank, untrammelled by any judicial exposition. If members believe that a Bank is a necessary and proper instrument to execute the taxing power of the Government, and can thus reconcile it to their consciences to declare it to be constitutional, and pass a bill creating it, the court have decided that they will not reverse this legislative decision. And yet this is the source whence has been drawn the unfair, the unjust, the monstrous inference, that John Tyler has had a rule prescribed to him which makes it his duty to approve a Bank charter, notwithstanding the Supreme Court have expressly devolved it upon Congress and on the President to decide that question, in the first instance, for themselves.

I said some days ago, in the language of a great man, that there was but one step from the sublime to the ridiculous; and that, in my opinion, the Whig party had taken that step when they determined to establish this "kite-flying fiscality." My remark, at the best, was not of much value; but such as it was, it had been stolen by the reporter of the National Intelligencer, and put into the mouth of the Senator from Kentucky. [A laugh.] I do not complain of this, for I very sincerely desire that he had both said it and thought it. And here let me say, in relation to this great political party of the Whigs—it might have originated the boldest and the worst measures—it might have struck directly at the very vitals of the Constitution; and yet, such is the influence of party feeling that, notwithstanding this sacrilegious blow, it might have still survived. But let me tell its leaders, that the moment it rendered itself ridiculous, it pronounced its own doom. The Senator from Virginia, indeed, spoke of the Whig party as already dead. In the opinion of that honorable Senator, the party was already past and gone.

[Mr. Archer here explained, stating that what he had said was this: that the party was gone, if the President, by his action, should throw the Whigs upon the ground occupied by their late opponents.]

Mr. B. Very well; the epitaph of the party may be briefly written. On its tombstone the historian may inscribe: "This party died not in the intellectual strife of giant minds; it perished not upon the open field of manly battle; but a mere *Sergeant* in its own ranks administered to it a dose of poison more fatal than hellebore, in the form of a 'Fiscal Corporation.'" Sir, but

three short months ago this triumphant party came into these halls, glorying and exulting in its great and splendid victory. The hero of a hundred fights was at its head, whose spirit would, I thought, have always mounted. Yet, notwithstanding the immense majority it wielded—notwithstanding the wisdom and experience of its commanding general—it has sunk step by step, till at length we have seen it descend to this miserable bill—to establish a "Fiscal Corporation." Why, sir, we are told, in the reports of the National Intelligencer, that, when this bill was presented in the other House, it was received with shouts of laughter; and I suppose the fact will not be disputed on this side of the House, considering the source from whence I have derived the information. There is one case recorded in history bearing a resemblance to the attempt to establish a National Bank. It is that of Charles James Fox, who introduced into Parliament his far-famed East India bill, which would have enabled him to grasp the wealth and power of India, and to use them as the means of overawing the King and controlling the people. Mr. Fox failed in this great attempt; but when he failed, he did not fall back on a "Fiscal Bank," and, failing in that, sink so low as a "Fiscal Corporation." No; there was something grand and noble in an old-fashioned Hamiltonian Bank of the United States. If it were a palpable usurpation on the Constitution of the United States, still it was a manly usurpation. It marched like a monarch into the States of the Union, and established itself and its branches where it pleased, without regarding their assent or dissent. It did not skulk into this District of ten miles square, and then stealthily steal out into the States where the States did not positively forbid. "How are the mighty fallen! Tell it not in Gath, publish it not in the streets of Askalon"—that the great, the triumphant, the dominant, the irresistible Whig party, has sunk to this thing called a "Fiscal Corporation!" And, from what the Senator from Virginia says, I doubt whether they will even get that. They may fly their kite at the White House.

[Here Mr. Archer interposed: "As to the White House, you know what is passing there much better than I. Your party, I believe, know more about the interior of that mansion than the Whigs do."]

Mr. Buchanan: I am sorry the honorable Senator from Virginia is mistaken. I hope it may be so before long. The inhabitant of that mansion has shown himself to be a man of mettle. He has not abandoned all his old Virginia principles to

become the tool of a party from which he differs on nearly all the great points of its policy. This Fiscal Corporation is, I presume, the ultimatum with the Whig party. You may fly your kite at the White House, but your bill will return protested. The President will fly no kite back again beyond the limits of this District, without the free consent of the States being first had and obtained. I think this is certain, from his veto message. And, what my friends on this side of the House will consider worse than all, he will not infer the assent of the States, either from the silence of their Legislatures, or their refusal to dissent. What his further views upon the subject may be, it is impossible for me to say.

The Bank which you propose to establish by this bill is a perfect speculator's bank. All the "bulls," and the "bears," and other speculating animals in Wall street, will hail it with exceeding great joy; while all other men, to whatever party they belong, will have reason for sorrow and lamentation. Your industrious mechanic—your discreet retail merchant—your plain farmer—your enterprising and ingenious manufacturer—will get no accommodation there—none. It is an exchange bank, confined to buying and selling foreign bills of exchange, including bills drawn in one State or Territory, and payable in another. To deal with such an institution, a man must be known on 'Change, he must have foreign correspondents. You can't fly your kite from one city to another within the same State. This Bank is to deal in kite-flying only between different States. Now, Mr. President, what is kite-flying? for I hold the contrary sentiment to that advanced by the Senator from Missouri, [Mr. Benton;] and I maintain that the "kite-flying fiscality" is a better name for this institution than the "meal-tub bank." Let me explain my notion of it; and, if I am wrong, there are gentlemen here who, no doubt, understand a great deal more about it than I do, and who will kindly put me right. Kite-flying, then, as I understand it, is never predicated of a real business transaction. A speculator in Philadelphia, wishing to raise the wind to the amount of a hundred thousand dollars, cannot obtain the money from this Bank on an accommodation note, as he could have done from an old-fashioned Bank of the United States; and to what expedient must he resort for this purpose? He gets a brother speculator in New York to consent that he may draw a bill of exchange on him. The Fiscal Corporation, which cannot discount his note, buys his bill thus drawn, and he puts the money in his pocket. The bill,

at its maturity, is not paid in money by the New York speculator, but he squares the account by simply drawing another bill back on the speculator in Philadelphia. This second bill, when due, is also satisfied by merely drawing a second bill on the speculator in New York; and so they keep it going backward and forward between the two cities as long as they please. This, in the technical language on 'Change, is called kite-flying. The Bank meanwhile, pockets the legal interest, and as much more as it can get for exchange. This process evades the usury laws, and enables it, without danger, to demand and receive more than legal interest for discounting bills.

Now gentlemen will perceive at once how exclusively this Fiscality will become a speculator's bank. A plain mechanic goes to the counter, and asks an accommodation for a moderate sum—say from five hundred to five thousand dollars—on a promissory note, with good endorsers; and what is the answer? "We can't accommodate YOU, sir; we only deal in exchange." The poor man turns away disappointed, and walks out without his money. But as he passes along, there comes in one of these kite-flying speculators—fellows who are up to the tricks of trade. He resides in Philadelphia, and draws his bill on the city of Camden, within five minutes' run across the Delaware, for five, ten, or twenty thousand dollars. That is no accommodation note; oh, no! it is a bill of exchange; and while the poor mechanic did not know how to do the thing, the more adroit speculator gets all he wants.

Now I shall not assert that this bill was drawn with a view to benefit speculators; but I do say it will accomplish that purpose as effectually as if this had been the intention of its framers. In several essential particulars it is worse—much worse than the Fiscal Bank bill of the Senator from Kentucky, which has been vetoed by the President. It is not true, as has been asserted, that this bill is a mere copy of the former bill, with no other change except what was necessary to confine the corporation to dealing in exchange. When I heard it suggested on this floor that an officer of the present bank of the United States had been consulted in the preparation of the new bill, I was at once aware that it would be necessary to scrutinize its provisions with the utmost care; and this task I have performed. The Senator from Virginia tells us that if the bill becomes a law, the stock will all be taken. Taken! My examination of the bill induces me to say,

undoubtedly it will. Nay, more; there will be a scramble for it. More stock will probably be subscribed in one day, than the whole amount of the capital of the Bank; and why? Because it is a Bank exactly accommodated to the purposes of speculators. The Senator from New York [Mr. Wright] had some old-fashioned notions on the subject of banking. He thought it was not right that a man should subscribe for stock in the Fiscal Bank, and pay for it not in money, but in loans obtained from the Bank itself on the security of the stock subscribed. It is true that past experience was in his favor, because the late Bank of the United States had been nearly ruined in the first years of its existence by the stock-notes; and by their use many banks have been brought into existence which were mere frauds upon the public. Hence that Senator proposed as an amendment, to which the honorable Senator from Kentucky assented, that such loans to stockholders to pay for their stock should be excluded, and that every subscriber should be compelled to pay his subscription in gold and silver. But no such rigid rule prevails in this bank in regard to individuals. The Government is a part stockholder, and it alone is required to pay up its seven millions in hard specie or its equivalent. But what must the speculator pay? There will be only ten per cent. required from him in money as a first instalment, and he can meet the remaining ninety per cent. of his subscription by a stock bill of exchange, or by borrowing the gold and silver out of the seven million fund placed in this bank by the Government. This is one important and striking difference between the present bill and that advocated by the Senator from Kentucky. The subscriber may fly his kite on New York or Philadelphia, and thus pay for his stock. As a proof that this difference exists, let me refer the Senate to the 14th fundamental article of the bill to create the Fiscal Bank, where they will find the following wise provision, which has been omitted in the present bill:

> Nor shall the said directors, either of the said principal bank or of any branch or office of discount and deposit, or any agency, discount, or suffer to be discounted, or receive in payment, or suffer to be received in payment, any note or evidence of debt as a payment of or upon any instalment of the said capital stock actually called for and required to be paid, or with the intent of providing the means of making such payment; nor shall any of the said directors receive or discount, or suffer to be received or discounted, any note or other evidence of debt, with intent of enabling any stockholder to withdraw any part of the money paid in by him on his stock.

It is not intended to suffer this Bank to confine itself to real business transactions. If it were thus confined, it might, to a certain extent, be of considerable use. A man in one portion of the Union, who had funds in another, might draw upon those funds, and thus, without trouble, obtain his money at the place of his residence. But dealing in *bona fide* bills alone will not answer. There must be kite-flying, there must be accommodation paper; or, if that were not intended, it will at least be the effect, and that to a vast extent. Accordingly, in order to make this an easy process for the speculating gentry, the provision contained in the Fiscal Bank bill of the Senator from Kentucky, intended to limit its business to real transactions, has been stricken from this kite-flying fiscality. The 20th fundamental article of this bill provided that—

> That no paper shall be discounted, or any loan made by said Bank for a longer period than one hundred and eighty days; nor shall any note, or bill, or other debt, or evidence of debt, be renewed or extended by any engagement or contract of said Bank, after the time for which it was negotiated shall have expired.

This was a wise, salutary provision. It would have confined the dealing in exchange to the actual wants of the country, had it been rigidly and faithfully enforced. But this, too, has been omitted; and the effect will be to make it the easiest thing in the world, by drawing bills backwards and forwards between different States, to furnish all the accommodation that speculators can desire. Bills of exchange may be discounted having years to run; and they may be renewed, when due, by the substitution of new bills, during an indefinite period, without any restriction whatever. Could the most unreasonable speculator desire more than this?

There is a third striking difference between the two bills. The former bill went on the presumption that members of Congress are men of mortal mould; that they possess the same passions and the same frailties as other men; that they are neither better nor worse than their fellow-citizens; and that, as it depended upon the vote of the two Houses of Congress whether proceedings should be instituted to forfeit its charter in case it were violated, they ought not to have any accommodations from the Bank, lest they might thus be swerved from their integrity of purpose. This, to be sure, was a very severe restriction; because gentlemen may desire, like some of their predecessors, to form another Congressional land company,

and it might be very convenient to obtain money on kite-flying bills, as some of their predecessors had done. Under similar circumstances, it would certainly be a very convenient matter for a member of Congress to fly a kite as far as Baltimore for ten or twenty thousand dollars, and no doubt he would find the Bank extremely accommodating. Another advantage is, that if he should not be able to pay at maturity, there is not the least danger that he will be ever publicly exposed. I believe it is a rule in love never to kiss and tell; and this rule has been most pertinaciously observed by the old corrupt and rotten Bank of the United States. If that bank accommodated members of Congress—and we know it did, to an immense amount—it has always refused to give up their names. The tears and the groans of the widows and orphans whom it has ruined have ascended to heaven, and accused its directors. These directors have been changed again and again, but still they have kept the secret. No resolves and no efforts of this body, or of the other House, have ever been able to extort it from them. There is among the secret arcana of that bank a document known by the name of the "suspended list," which, if ever published, would give the information; but every human being who has had access to that paper has most religiously kept the secret. If they had not, it may be that men who now hold their heads very high, and who occupy distinguished stations in the State, would be covered with shame, and humbled in the very dust. Could that list be procured, it is at least possible that we might learn how bank accommodations can be paid off by the transfer of lots in lithographed paper cities, and valueless western lands. Happily, under this bill these golden opportunities will again be afforded, and the wind will again prove fair for members of Congress to fly their kites as well as other men.

And here let me point out something of the working of this new patent machine. Why, sir, to use a western phrase, "it will go without greasing;" there will be no manner of difficulty in the way. The borrower in Philadelphia will, as I told you, draw his bill on some far remote city in another State—such as Camden; and when his bill is due, his *bona fide* correspondent in Camden can draw back on him just such another on Philadelphia, and thus, without discounting a single promissory note, the Bank can lend more money and make more profit than if its discounting power were without restriction. I was really astonished to hear the gentleman from Virginia [Mr. Archer] assert, whilst he denounced the power of discount as being so immense and so dan-

gerous, and so utterly inadmissible, that this other power of dealing in exchanges was the most benign, the most beneficent, and the most felicitous power that ever was devised by man, and that a bill which conferred it should, as a matter of course, unite in its favor the votes of all the Whig party. Then there is the city of New York and Jersey City. If the honorable Senator should at any time want a loan, he has only to fly his kite across the Hudson river, and he can readily be accommodated.

[Mr. Archer: I never drew a bill which had one character and asserted another.]

Yes, but when you establish a bank of such a character as this, you must expect that such consequences will follow. A bank from which all restrictions are taken away, and at whose counter the whole speculating world is invited to borrow—from such a bank, what else can you expect? It will loan money on bills of exchange, instead of loaning on promissory notes; and, for my soul, I cannot perceive any essential difference between the two modes. The only effect in thus changing the form will be to induce men to commit fraud. Instead of drawing on real funds, they will draw bills on places where they have nothing to answer them. They will thus make their loans, and the bank make its profits, with this only difference—that they have to pay a little more for their money, while the bank will receive a larger interest, in the name of a premium, than the law would allow it to take on the discount of a promissory note. I can see that some cities—and cities of great business, too—will derive little benefit from this bill. Buffalo, for example, and Pittsburgh, will both be in a "bad fix," for Buffalo cannot draw on New York, nor Pittsburgh on Philadelphia. And why? Because, under this wise bill, two cities in the same State cannot draw on each other. I cannot imagine how the merchants who conduct the immense flour and other business of Buffalo will be able to obtain accommodations, unless, indeed, they resort to flying kites to the Canada shore, and they present foreign bills to the bank for discount. Cincinnati will be well off, because Newport is just across the river, and the drawer and the acceptor will be almost within hail of each other. This machine, such as I have described it, will regulate the price of every commodity in the country, and it will be done by this kite-flying process.

There are on the stock exchange two classes of speculators—the one called "bears," and the other "bulls." The business of gambling assumes different forms at different times. Gambling

at " all fours," at " loo," at " faro," &c., has gone out of fashion. The fashion now is to gamble in stocks. Those who play at the game are either bears or bulls. The bear does what he can to depress the price of stocks in the market, whilst the bull is equally intent upon raising it. The bear wagers with the bull on a certain day (three months, for example, after the date) a particular stock will be ten per cent. lower than at present. So to work they both go—the one to depreciate, the other to enhance, the price of this stock. Hence there is a constant struggle going on between these two classes. As this gambling assumes the form of an agreement by the bear to transfer to the bull a certain amount of stock at a fixed price on a future day, which is called " selling on time," the bulls often combine to buy up all of a particular stock in the market before the day of transfer arrives, so that the bears cannot fulfil their contracts; in which case they are compelled to pay " smart money," and then they are said to be "cornered," (a phrase, by the by, more appropriate than "headed," as applicable to Captain Tyler, when the *modus operandi* is to push this kite-flying fiscality at him.) Such being the state of things, these gamblers in stocks will enter into a fierce struggle as to which class shall be the directors of the branch agencies, because they can then elevate or depress the price of every kind of stock, as well as of all other property throughout the entire country, just as it shall suit their purposes of speculation. And this, forsooth, is the sort of fiscality which President Tyler is expected to approve, after having placed his deliberate veto upon what was, comparatively, a respectable institution. This is the question on which the great Whig party are to go before the people, and in regard to which they suppose they can disturb the serenity of the public mind by denouncing John Tyler for his refusal to sign the bill. A cabinet which would go out of office on such a question as this, would subject themselves to scorn and ridicule.

But this Fiscal Corporation is to regulate domestic exchanges. Really, Mr. President, I thought we had heard enough on that point. Regulate the exchanges! Why, the exchanges are regulated at this moment, and as well regulated as they have been for many years past. There seems to exist a general conspiracy among the public journals to impose upon their unreflecting readers in relation to this matter. The exchange list, for instance, will tell you that the exchange between New York and Detroit is fifty per cent., but what is that fifty per cent.? It is, in truth,

only the difference between the value of gold and silver in New York and the bills of some Wild Cat bank in Michigan. (That, I think, is the name of this sort of money.)

[Mr. Benton, across: "Red Dog."]

I never heard it called "Red Dog," but, for aught I know, that may be the proper name. I have in my pocket a letter from Detroit, assuring me that exchange is as low as it ever was before; the real difference between hard money in Detroit and hard money in New York being only from one to one and a half per cent. And yet this bill is to regulate exchanges! Unless under very extraordinary circumstances, the rate of exchange always regulates itself. It is the course of commerce that regulates the exchanges between any two places in the same country; and the true rate of exchange between one place and another consists only of the cost of the transportation and insurance on gold and silver. Exchange between New York and Philadelphia is quoted at 2 to 3 per cent. And why? This is the difference between gold and silver in New York and the depreciated paper circulating in Philadelphia. Let us no longer indulge the hope of establishing this, or any other fiscal banking corporation like it. Let John Tyler send us a good old-fashioned Jackson veto, which will place the bank question at rest as long as he shall continue President, and the public mind will settle down into a state of calm and tranquillity; and in less than six months the commercial business of the country will again be prosperous. How is this business conducted in Europe? Do their banks deal in exchange? Very little, if any. And yet I can take a letter of credit at St. Petersburg, travel with it all over the continent, and not pay more than a very small premium. To talk of exchange being 10 and 20 per cent. between place and place in the United States, is to suppose that people do not understand the difference between gold and silver and a depreciated paper currency.

I say, further, let our domestic manufacturers beware of this bill. The Fiscal Corporation is to deal in exchange between this and foreign countries. This will greatly increase the importation of foreign goods, by affording the easiest mode of payment. Duties will be collected in bank paper instead of gold and silver, in consequence of the repeal of the Independent Treasury. Large accommodations will be obtained by our importing merchants from this corporation, and the country will be inundated with foreign goods. Pass the present bill, and this object can easily be accomplished. A friend of mine said to me in conversation,

that this bill ought to pass, because the Bankrupt bill had passed. Now, I think that we should have passed the Fiscality first, to enable the speculators to run in debt beyond their means of payment; and afterwards have passed the Bankrupt bill, to enable them to discharge their obligations in the easiest manner possible. [A laugh.]

And now I have one word to say on the late Presidential veto, and then I shall have done. It has been said that John Tyler was bound by the fidelity which he owed to his party to approve the bill for a Fiscal Bank. I deny it altogether, and say that, if he had approved that bill, he would have deserved to be denounced as a self-destroyer, as false to the whole course of his past life, false to every principle of honor, and false to the sacred obligation of his oath to support the Constitution. He had declared, again and again, that such a bank was unconstitutional, and yet he is denounced because he did not render himself infamous by an utter disregard of that instrument. The President had but one righteous course before him, and had he taken any other, it would not only have blasted his own character, but it would have fixed a blot on the history of his country to all future generations. How was he committed to sign a bill which he believed to be unconstitutional? What was the history of the Harrisburg convention?—and it will be remembered that I do not live far from that celebrated place. How was that convention composed? It contained, I admit, many men of the highest respectability; but, in a political view, it was made up "of all nations, and people, and kindred, and tongues." "Black spirits and white, blue spirits and gray," all mingled their counsels there, to attain a single end—an available candidate for the Presidency. In this they succeeded; and the result was, to turn Mr. Van Buren out, and put themselves in. The infidel philosopher Volney, in his celebrated "Ruins of Empires," presents us with an imaginary picture of an assemblage, in which all the religious sects of the earth were collected together, and engaged in defending their respective creeds; and such a confusion ensued as might put to shame that at the tower of Babel. Just so would it have been at Harrisburg, if they had attempted to discuss any political principles. *There* was the Abolitionist, ready to call down fire from heaven to annihilate slavery from the face of the earth; and side by side with him sat the honorable and high-spirited Southern slaveholder. *There* was the Antimason, whose motto was "Destruction to all secret societies," mingling in sweet

communion with the Bank director, who, with the fidelity of a vestal, had preserved the secrets of his prison-house. *There* was the Consolidationist, holding, as my friend from Virginia does, that the mere power to buy a bill of exchange vested in Congress the power to create an exchange bank; while hand and hand with him we might see the tight-laced strict Constructionist, who will hardly allow the Government power to do anything. In that one motley assembly were to be seen all colors and all shades of political opinion. From absolute necessity, not from choice, they were compelled to abstain from making any public declaration of their principles. Now, if John Tyler had a right to infer anything from the proceedings of that body, it was that he would be at liberty to oppose a Bank of the United States. Certain leaders of that convention were, it is true, in favor of a Bank; but, while the convention, as a body, selected well known anti-Bank men as their chosen candidates for the Presidency and Vice-Presidency, were those candidates to infer that they must change all their opinions and become Bank men? Sir, I deplored the death of General Harrison, from the deep respect I entertained for his name and character, however much I may have differed from his political principles. But General Harrison was, *par excellence,* an anti-Bank man. All his public declarations, up to the very moment of the election, establish this fact. Nay, more; we, who have been denounced as the Loco-Foco, barn-burning, agrarian portion of our party, because we assert the constitutional right to repeal a public corporation entrusted with the sovereign power of managing the finances of the country, when the public interest demands it, may claim him as a brother in the faith; for when a resolution was introduced in the House, in 1819, to repeal at a single blow the charter of the late Bank, he voted in its favor. And as to John Tyler, he has so often declared himself against a Bank of the United States, that there is no need I should specially refer any gentleman to his opinions on that subject. There they both were, holding these opinions, and having openly avowed them; and it is utterly impossible that the members of this convention should have been ignorant of the fact. The convention, then, made no avowal of its principles. And what was the voice of the people? I can truly say that, during the whole election campaign, I never saw one single resolution in favor of a National Bank, which had been passed by any Whig meeting in any part of the country.

In some of the States a Bank might have been popular; many

of the leaders certainly desired it; but that was an issue which they carefully kept from the public eye. The Senator from Virginia [Mr. Rives] denounced a Bank, as he has informed us, all over that State; and the Senator from New York [Mr. Tallmadge] has admitted that, in his public speeches, he was silent on the subject. I had thought that, if any State in the Union was favorable to a Bank, it must have been Ohio; yet in the Richmond Enquirer there is a letter from the present Secretary of the Treasury to his friend, L. D. Barker, Esq., from which a very different inference may be drawn. I shall read an extract from it:

LANCASTER, (O.) July 18, 1840.

MY DEAR SIR:

On my return from Columbus, this evening, I received your letter, informing me that it was asserted, at a public meeting in Washington county, that, in a speech at Philadelphia, I had said the true question between the parties was a Bank of the United States; *and that you, from a knowledge of the real question, and of me, had contradicted the assertion. In this, of course, you were perfectly safe. I made no such statement, but the very contrary,* &c., &c.

In the State of Pennsylvania, I know that the establishment of a National Bank was nowhere made the issue. I assert, then, that all the evidence we have is for, and none against, the fact stated in the President's message—that the people of the United States never had declared themselves in favor of a Bank.

The whole spectacle presents to us a memorable moral. Divines have said that national sins are always visited by national punishment; because, in a future state, retributive justice cannot reach nations collectively; and, for the same reason, a violation of principle by any political party is sure in the end to meet with its appropriate reward. Where, on the face of the earth, can another example be found of a great, influential, and highly talented party having assembled together from all points of the country, and, when collected in one grand convention, having refused to announce to the world any political principles? The Whigs expected to rouse the nation to a struggle which should displace their adversaries; but they announced no principles "for the public eye;" and when we asked them for their political creed, they always referred us to the public declarations of their candidates. Well, what was the punishment of this double dealing? It was, that a party, whose leaders desired a Bank of the United States above all other things, should have been so infatuated as to select as their candidates two decidedly anti-Bank men.

There was but one principle in which the whole Whig party seemed to be unanimous, and that was—in proscribing proscription. Their vow was to put an end forever to the maxim that "to the victors belong the spoils;" and yet the venerable patriot who had often bared his breast in battle to the enemies of his country, was, in less than a single month, hunted to death by the importunity of Whig office seekers. A friend offered to show me a medical pamphlet, published in the city of Philadelphia, declaring that it was from this cause that President Harrison came to his death.

I say that President Tyler could not have done otherwise than veto that bill, if he wished to preserve his character as an honest man. He must have done it from necessity, if not from choice. He could not have approved and signed that bill, without exhibiting to the American people the disgraceful spectacle of a high public officer contradicting all the professions of his past life, and giving the lie to all his own often avowed principles. A rumor exists, we have been told on this floor, that the veto was given against the unanimous opinion of the Cabinet. And suppose it was; who is responsible to the people of the United States for conducting the Government? Is it not the President? Undoubtedly he ought to consult the opinions of the Cabinet; but if he and his Cabinet cannot agree in sentiment, which is to yield —the Cabinet or the President? Certainly, according to the theory of our Government, it is the Cabinet. I was glad to find, in the official organ of the Administration, such good old-fashioned Democratic doctrine as I saw there a few days since. It is true I was not, to every extent, in favor of "the unit," but I would say, in behalf of the article to which I refer, that it is one of the best I have ever read, and one that would not disgrace the palmiest days of the Democratic Administration. If the President cannot agree with his Cabinet, or if the Cabinet cannot agree with the President, I do not say what ought to be the consequence. I have no feeling on the subject; it matters nothing to me who are in, or who are out of office.

The Senator from Kentucky tells us that he never said President Tyler ought to have resigned, but only that resignation was one of the alternatives before him. A President resign! A President, who had been but three months in power, resign his place! Why, sir, this is almost a moral impossibility, so deeply is the love of power rooted in the human breast. No President will ever think of doing any such thing. In the whole range of

history, I recollect but two memorable instances of the kind; one was that of the Roman emperor Diocletian, and the other of the emperor Charles V. The Roman emperor, you know, went to raising cabbages, as Mr. Van Buren is now doing; and Charles buried himself before he was dead—a very fit emblem of the condition of a President who should resign his office that he might suffer a bill for a *Fiscal Bank* to become a law!

Mr. B. resumed his seat amidst a general laugh.

Mr. Buchanan having concluded—

Mr. Clay of Kentucky next addressed the Senate. Certainly, said he, nothing was further from my expectations, when I came here to listen to the speech of my worthy friend from Virginia, than to find myself placed in such a situation as to be called on to say one word in relation to this bill. But the Senator from Pennsylvania has indulged himself on this occasion in exercising a talent for wit and humor, at our expense, in which he does not often indulge. Let me, if he will allow me, make a suggestion to him, that his appropriate province is logic, or grave debate, rather than wit. But if I should happen to catch, by contagion, somewhat of the same vein, he will, I am sure, excuse me, and receive it in the same good humor that we have taken what fell from him.

As to the bill before the Senate I have not much to say. There are two great faculties which ordinarily belong to banks: one is to deal in that sort of commercial paper which is called promissory notes; the other to deal in bills of exchange, also an ordinary commercial instrument. By the present bill, the bank which is to be created is deprived of one of these faculties, while the other is left to it: and there is no more danger of abuse in the exercise of the retained faculty by this corporation than in the ordinary banks of the country.

Nor am I very familiar with all the proceedings at the Harrisburg Convention. The honorable Senator seems to think that it contained Abolitionists, against whom he appears, of late, to have taken up a peculiar hostility. I call upon him to name one Abolitionist who was a member. I believe there was not one. I defy him to the proof. He says that the gentlemen who composed that assemblage were men of all sorts of political principles: and to some extent that remark is certainly true. But there was one principle which I am very sure was held by none of them: there were none who went for low wages! [A laugh.] The Senator, however, tells us not only that they held all sorts of principles, but that they were afraid to publish to the world any declaration of their sentiments. Now, I believe it is a part of the law of nations that, when war is made against pirates, there is no need of the ceremony of any formal previous declaration of war, but it is understood on all hands that you are at liberty to attack them without notice and without ceremony, and cut and slash as hard as you please. But if that same Convention at Harrisburg was such an unprincipled collection of political sectaries—such an *omnium gatherum* of all kindreds and colors, what sort of a party must that have been which could have been so utterly prostrated and put down by such a heterogeneous combination? [A laugh.]

The Senator commenced by saying that, among their other doings, the

Whigs "had done for themselves." I beg gentlemen not to "lay that flattering unction to their souls." What! the Whigs of this country to be annihilated by any thing which has occurred during this session? Never, never. Their principles are as eternal as truth, and as sure to prevail as is the cause of civil liberty to triumph. It was justly remarked by my friend from Virginia that the restriction of Executive power, ay, of the royal, the imperial power of setting the will of one man against the united will of an entire people, stood highest on the list of the principles avowed by the Whigs during the late memorable contest; and let me tell gentlemen that, if we shall have a shower of vetoes, that principle will still be written in letters of light upon all their banners.

Let the Senator from Pennsylvania and his party war, if they will, for Executive supremacy—for the arbitrary principle that the will of one man shall prevail against the will of the whole country. We are willing to go before the people upon that issue; and, if I am not utterly mistaken in the inherent love of liberty by them all, Whigs and Democrats, there will be a general condemnation of such an odious and detestable doctrine. Let the Senator and his friends go to the other wing of the Capitol, and look upon that Macedonian phalanx, standing shield to shield in a compact and impenetrable line, and, in defiance of all the difficulties which beset them, maintaining their position unmoved and their front unbroken; for, I will repeat what I have often said with inexpressible pleasure, never, no, never, was there a House of Representatives more imbued with a lofty and generous spirit of patriotic devotion to liberty and to the discharge of a high public duty. Let them, I say, look on that spectacle, and then ask themselves, How is such a party to be broken down? By whom? By any one man? Where is he? If Napoleon were to rise from the dead, and appear again at the head of all his power, he could not do it. The Senator has prematurely yielded to feelings of exultation. He has stretched out his hand and grasped, not the sceptre, but a fleeting vision. He has cried before he was out of the woods.

An honorable Senator from New Hampshire [Mr. Woodbury] proposed some days ago a resolution of inquiry into certain disturbances which are said to have occurred at the Presidential mansion on the night of the memorable 16th of August last. If any such proceedings did occur, they were certainly very wrong and highly culpable. The Chief Magistrate, whoever he may be, should be treated by every good citizen with all becoming respect, if not for his personal character, on account of the exalted office he holds for and from the people. And I will here say that I read with great pleasure the acts and resolutions of an early meeting, promptly held by the orderly and respectable citizens of this metropolis, in reference to, and in condemnation of, those disturbances. But, if the resolution had been adopted, I had intended to move for the appointment of a Select Committee, and that the honorable Senator from New Hampshire himself should be placed at the head of it, with a majority of his friends. And I will tell you why, Mr. President. I did hear that about eight or nine o'clock on that same night of the famous 16th of August, there was an irruption on the President's House of the whole Loco Foco party in Congress; and I did not know but that the alleged disorders might have grown out of or had some connection with that fact. [A laugh.] I understand that the whole party were

there. No spectacle, I am sure, could have been more supremely amusing and ridiculous. If I could have been in a position in which, without being seen, I could have witnessed that most extraordinary reunion, I should have had an enjoyment which no dramatic performance could possibly communicate. I think that I can now see the principal *dramatis personæ* who figured in the scene. There stood the grave and distinguished Senator from South Carolina——

[Mr. Calhoun here instantly rose, and earnestly insisted on explaining; but Mr. Clay refused to be interrupted or to yield the floor.]

Mr. Clay. There, I say, I can imagine stood the Senator from South Carolina—tall, care-worn, with furrowed brow, haggard, and intensely gazing, looking as if he were dissecting the last and newest abstraction which sprung from metaphysician's brain, and muttering to himself, in half-uttered sounds, "This is indeed a real crisis!" [Loud laughter.] Then there was the Senator from Alabama, [Mr. King,] standing upright and gracefully, as if he were ready to settle in the most authoritative manner any question of order or of etiquette that might possibly arise between the high assembled parties on that new and unprecedented occasion. Not far off stood the honorable Senators from Arkansas and from Missouri, [Mr. Sevier and Mr. Benton,] the latter looking at the Senator from South Carolina, with an indignant curl on his lip and scorn in his eye, and pointing his finger with contempt towards that Senator, [Mr. Calhoun,] whilst he said, or rather seemed to say, "He call himself a statesman! why, he has never even produced a decent humbug!" [Shouts of laughter.]

[Mr. Benton. The Senator from Missouri was not there.]

Mr. Clay. I stand corrected; I was only imagining what you would have said if you had been there. [Renewed laughter.] Then there stood the Senator from Georgia, [Mr. Cuthbert] conning over in his mind on what point he should make his next attack upon the Senator from Kentucky. [Laughter.] On yonder ottoman reclined the other Senator from Missouri on my left, [Mr. Linn,] indulging, with smiles on his face, in pleasing meditations on the rise, growth, and future power of his new colony of Oregon. The honorable Senator from Pennsylvania, [Mr. Buchanan,] I presume, stood forward as spokesman for his whole party; and, although I cannot pretend to imitate his well-known eloquence, I beg leave to make an humble essay towards what I presume to have been the kind of speech delivered by him on that august occasion:

"May it please your Excellency: A number of your present political friends, late your political opponents, in company with myself, have come to deposit at your Excellency's feet the evidences of our loyalty and devotion; and they have done me the honor to make me the organ of their sentiments and feelings. We are here more particularly to present to your Excellency our grateful and most cordial congratulations on your rescue of the country from a flagrant and alarming violation of the Constitution, by the creation of a Bank of the United States; and also our profound acknowledgments for the veto, by which you have illustrated the wisdom of your Administration, and so greatly honored yourself. And we would dwell particularly on the unanswerable reasons and cogent arguments with which the notification of the act to the Legislature had been accompanied. We had been, ourselves, struggling for days and weeks to arrest the passage of the bill, and

to prevent the creation of the monster to which it gives birth. We had expended all our logic, exerted all our ability, employed all our eloquence; but in spite of all our utmost efforts, the friends of your Excellency in the Senate and House of Representatives proved too strong for us. And we have now come most heartily to thank your Excellency that you have accomplished for us that against your friends which we with our most strenuous exertions were unable to achieve." [Roars of laughter.]

I hope the Senator will view with indulgence this effort to represent him, although I am but too sensible how far it falls short of the merits of the original. At all events he will feel that there is not a greater error than was committed by the Stenographer of the Intelligencer the other day, when he put into my mouth a part of the honorable Senator's speech. [Laughter.] I hope the honorable Senators on the other side of the chamber will pardon me for having conceived it possible that, amidst the popping of champagne, the intoxication of their joy, the ecstasy of their glorification, they might have been the parties who created a disturbance, of which they never could have been guilty had they waited for their "*sober second thoughts.*" [Laughter, loud and long.] I have no doubt the very learned ex-Secretary of the Treasury, who conducted that department with such distinguished ability, and such happy results to the country, and who now has such a profound abhorrence of all the taxes on tea and coffee, though, in his own official reports, he so distinctly recommended them, would, if appointed chairman of the committee, have conducted the investigation with that industry which so eminently distinguishes him, and would have favored the Senate with a report, marked with all his accustomed precision and ability, and with the most perfect lucid clearness. [A laugh.]

There is one remark of the Senator from Pennsylvania which demands some notice. My friend from Virginia [Mr. Archer] threw out an intimation that very possibly the Senator from Pennsylvania knew more of the sentiments and purposes prevailing at the White House than he did. That Senator, in reply, denied that that was the case as yet, but said that he hoped and expected it soon might be so. Expected? Expected what? That a President of the United States, elected by the Whig party to a different station, and having arrived at the Presidency under circumstances calculated to call forth his most profound gratitude, should abandon the party which elevated him; should commit an act worse than treason, and join that party of which the Senator is a distinguished member, but to which the President has been diametrically opposed? Could that be what the Senator meant? If it was, then I say that the suggestion, the bare supposition of such a thing, is in the highest degree injurious to the President. I do not pretend to know what may be his feelings, but sure I am that were I in his situation, and the possibility of such an act of treachery were affirmed of me, the reproach would fill my heart to its inmost recesses with horror and loathing. But the Senator chose to assign the reason why he hoped and expected this. It was that the President differed from his party on almost every one of its great and leading points of policy. Now I intend, for a moment, to institute a comparison between the differences of the President from the policy and principles of the Loco Foco party and his alleged differences from the policy and principles of the Whigs. And, first and foremost, I will place the act of expunging and mutilating the official

records of this body. Did the President agree with the Loco Focos in regard to that act? Again, on the question of Executive power, and the extent and increase of Executive patronage, does the President agree with the Whigs or those on the other side? For myself, I do think that, in the impressive words of Mr. Dunning, the power of the Executive has increased, is increasing, and ought to be diminished. And then on the one-term principle, what are the President's opinions? Does not all the world know? Has he not put them in writing, and declared, over and over, that no President ought to serve for more than one term? Has he not seen the effect of the opposite practice in leading a Chief Magistrate so to use his power as to secure his re-election to office? And then in regard to the Sub-Treasury, what are the President's opinions on that point? Have gentlemen on the other side made up their opinion? Is there to be an accommodation on this point? No, sir, the hope of it is vain. The soil of Virginia is too pure to produce traitors. Small, indeed, is the number of those who have proved false to their principles and to their party. I knew the father of the President, Judge Tyler, of the General Court in Virginia, and a purer patriot or more honest man never breathed the breath of life; and I am one of those who hold to the safety which flows from honest ancestors and the purity of blood.

Gentlemen are exulting over an event which never can and never will happen. No, gentlemen, the President never will disgrace himself, disgrace his blood, disgrace his State, disgrace his country, disgrace his children, by abandoning his party, and joining with you. Never, never. If it were among the possibilities of human turpitude to perpetrate an act like that, I cannot conceive on what principle or for what reason the President could rush upon a deed so atrocious, and deliver himself over to infamy so indelible. Nor do I know which would surpass in baseness, the man who could commit such an act of treason, or the party who would receive and embrace and adopt one who had thus disgraced himself. No, gentlemen, no; never will the President of the United States be guilty of such a crime, and, if he did commit it, the party has too much regard for the opinions of mankind ever to receive and reward him for the deed. Treason, while in the progress, is indeed always agreeable to the party or country to whose benefit it is to inure; but when it has been perpetrated, what does history tell us the fate has been of every traitor? And what ought that fate to be? If there is any thing like agreement between John Tyler and the Loco Foco party, it is simply and exclusively on this question of a Bank. On that one point I admit that there is a great and unhappy difference of opinion between him and his political friends; but how can he by possibility go over to the other party, from whom he has always differed on every other point? On all other points—the distribution of the proceeds of the public lands, the bankrupt law, public economy and reform—he agrees with us. Gentlemen chuckle in the confidence that he is going to veto this bill. I do not myself think he will. But, even if he does; still I say it is a moral impossibility that there ever can exist so infamous, so unnatural a union, as that between a President who has betrayed one party, and the other party directly opposed to him, who must have too much regard to their character and the opinion of mankind to receive and embrace him, if it were possible that he could prove false and faithless to his friends.

I had not the remotest idea when I entered the Senate of saying a word on the present question; but there was a species of unauthorized exultation manifested by the Senator from Pennsylvania which I could not suffer to pass. The gentleman has expressed high hopes, but they are hopes doomed to be disappointed. Fully believing this, and being for myself determined to live and die with the Whig party, I thought it right to say what I have done.

Mr. Buchanan rose and said that he had listened with his usual gratification to the reply of the distinguished Senator from Kentucky, with the exception of a single remark. He referred to his [Mr. Clay's] allusion to the electioneering slang of the late contest on the subject of low wages. This remark was wholly unworthy of that Senator, and he intended to answer it as it deserved.

After some explanations between Mr. Clay and Mr. Buchanan, in which the former disclaimed any offensive purpose in his remark on this subject, and said it had been uttered merely in a playful manner, and was not intended to wound the Senator's feelings in the least; and, after Mr. Buchanan had expressed himself entirely satisfied, and that he was glad they were friends again—

Mr. Buchanan proceeded as follows:

The Senator has informed me that I do not succeed in attempts at wit; and in this he is doubtless correct. I am a plain man, and speak right on that which I have to say. I think I can, with equal justice, return his compliment. If I do not succeed at wit, he as rarely succeeds in argument. Argument is as little his province as wit is mine. He is eloquent, as we all know, and sagacious; and, besides, he is the very best drill officer that ever disciplined any party; but, in regard to sound logic, or what he denominates "abstractions," he is not very famous.

Again: the Senator says that, when we make war on pirates, we do it without any previous declaration of war, and we may then cut and slash the enemy as much as we please. This remark has revealed to me a secret. I never before understood the principles upon which the Whig party conducted the late Presidential campaign; and I must say that, in practice, they carried out these principles to admiration. Without making any declaration of their creed, their forces did cut and slash at us with a vengeance, whilst they kept their courage up by Tippecanoe songs and hard cider, and by log cabins ornamented with coon skins. They had been so long accustomed to such revels, and they understood the art of singing and shouting so well, that when, on the night of the

veto, they insulted the President of the United States at his own mansion, by a riot of this description, they were only engaged in their old vocation.

The honorable Senator has, with great power of humor, and much felicity of description, drawn for us a picture of the scene which he supposes to have been presented at the President's house on the ever-memorable evening of the veto. It was a happy effort; but, unfortunately, it was but a fancy sketch—at least so far as I am concerned. I was not there at all upon the occasion. But, I ask, what scenes were enacted on that eventful night at this end of the avenue? The Senator would have no cause to complain if I should attempt, in humble imitation of him, to present a picture, true to the life, of the proceedings of himself and his friends. Amidst the dark and lowering clouds of that never-to-be-forgotten night, a caucus assembled in one of the apartments of this gloomy building, and sat in melancholy conclave, deploring the unhappy fate of the Whig party. Some rose, and advocated vengeance; "their voice was still for war." Others, more moderate, sought to repress the ardent zeal of their fiery compatriots, and advised to peace and prudence. It was finally concluded that, instead of making open war upon Captain Tyler, they should resort to stratagem, and, in the elegant language of one of their number, that they should endeavor "to head" him. The question was earnestly debated by what means they could best accomplish this purpose; and it was resolved to try the effect of the "Fiscality" now before us. Unfortunately for the success of the scheme, "Captain Tyler" was forewarned and forearmed, by means of a private and confidential letter, addressed by mistake to a Virginia coffee-house. It is by means like this that "enterprises of great pith and moment" often fail. But so desperately intent are the Whig party still on the creation of a Bank, that one of my friends on this side of the House told me that a Bank they would have, though its exchanges should be made in bacon hams, and its currency be small potatoes. [A laugh.]

The Senator has often lauded to the very echo the Macedonian phalanx, as he terms them, in the other House, and proposed their example as worthy of our imitation. Now, sir, I never should have made any reference upon this floor to the proceedings in that House, (which is contrary to all parliamentary rules,) had I not been driven to it by the previous remarks of the Senator. Before Heaven, I believe that the conduct of that phalanx, of which the Senator seems so proud, forebodes the

destruction of the liberties of this country, unless the sovereign people should frown it down forever. If the representatives of fifty thousand freemen can be deprived of the right of speech by arbitrary rules prescribed by a tyrannical majority, and the people of the United States should tamely submit to such a violation of their liberties in the persons of their representatives, then they will deserve to be slaves. Let it once be fully known throughout the country that those whom the people have selected to represent their sentiments and their interests in the other branch of Congress have been prevented from expressing their opinions, and have even been denied the poor privilege of recording their votes on questions of the last importance; and then, if their constituents should silently acquiesce in this usurpation, we shall be subjected to the same tyranny with that imposed upon France by Napoleon, when he organized his silent Legislative Council. I did not believe that the House of Representatives had been reduced to any such condition, until I read the able letter upon the subject, of a member from South Carolina, [Mr. Rhett.] With that letter in my hand, I would go into any Congressional district of this Union, and, humble as I am, I should feel confident of obtaining the unanimous voice of the people in condemnation of such proceedings as it describes. This question soars far above all mere party distinctions. It is one upon the decision of which depends the efficient existence of our representative republican form of government.

The present bill to establish a Fiscal Corporation was hurried through the House with the celerity, and, so far as the Democracy was concerned, with the silence of despotism. No Democrat had an opportunity of raising his voice against it. Under the new rules in existence there, the majority had predetermined that it should pass that body within two days from the commencement of the discussion. At first, indeed, the determination was, that it should pass the first day; but this was too great an outrage, and the mover was graciously pleased to extend the time one day longer. Whilst the bill was in Committee of the Whole, it so happened that, in the struggle for the floor, no Democratic member succeeded in obtaining it; and at the destined hour of four in the afternoon of the second day, the committee rose, and all further debate was arrested by the previous question. The voice of that great party in this country to which I am proud to belong was, therefore, never heard through any of their representatives in the House against this odious measure. Not even one brief hour, the

limit prescribed by the majority to each speaker, was granted to any Democratic member.

But the Democracy of the land are not only deprived of the liberty of speech in the persons of their Representatives, but these Representatives are even denied the right of recording their votes on the ayes and noes, for or against any amendment to any bill, unless the majority please to grant them this permission. Under the rule, the ayes and noes cannot be demanded in Committee of the Whole. Every amendment offered there, which is disagreeable to the majority, is voted down without any responsibility of the Representative to his constituents, because the names of the voters are not recorded on the journal; and it is impossible to renew any such amendment after the bill has been reported to the House, because at that very instant the gag of the previous question is applied, which cuts off all debate and every amendment not sanctioned by the committee. And this is the bright, the glorious example which the Senator from Kentucky has so often proposed for the imitation of the Senate of the United States! But enough of this.

The Senator, with his usual tact and skill, has seized upon a playful remark of mine in reply to my friend from Virginia [Mr. Archer] over the way, that, although I did not know at present what might be the opinions of Mr. Tyler, yet I hoped this might not long be the case. Upon this feeble foundation, the Senator, with that commanding eloquence which is ever ready, has indulged himself in declaring that John Tyler would be guilty of the most atrocious treason, should he be willing to desert his own party, and ally himself with the Democracy; and in that event, he has expressed the confident belief that we would be too honorable to receive him into our ranks. Now, sir, if the avowed opinions of Mr. Tyler's whole life be, as they are, in diametrical opposition to those of the Senator, what course is he to pursue? Must he abandon his long cherished principles merely because they are identical with those of the Democratic party? And is he to be denounced as a traitor for this mere coincidence of opinion? This would indeed be unjust vengeance. No man of the Democratic party, to my knowledge, either expects or desires office or honor at his hands. I will tell the honorable Senator, however, what we do intend, although we have studiously kept ourselves aloof from all interference with the President, and from every attempt to influence his conduct. So far as his measures shall be in conformity with our principles, we shall give them a cordial

and zealous support. Should the Senator, in utter violation, as we believe, of the Constitution, again attempt to establish a National Bank, with the privilege of spreading its branches throughout the Union, and thus, by concentrating the money power, to corrupt the land; and should the President again and again conscientiously veto such a dangerous measure, we shall be ever ready to yield him our support in a cause so righteous. Whatever the Senator may think of us, we shall cheer him on in the path of duty with, "Well done, good and faithful servant; you have redeemed your country from an institution in deadly hostility both to the spirit and letter of our form of government." And will the Whigs charge him with treason for this? The idea of falsehood is always involved in that of treason, and they never can succeed in branding a man as a traitor for adhering to the well-known principles of his whole life.

The Senator expects that President Tyler will approve this bill. If he does, he will then render himself forever infamous. His name will be the scorn and ridicule of one party, and the contempt of the other. No; he will never do it. Destiny has left him but one course to pursue as an honest man, and that is to go straight ahead, and fearlessly perform his duty. He cannot now turn back without disgrace and dishonor. If he shall pursue this course, a vast majority of the American people of all political parties will award to him the merit of having sacrificed all his personal feelings, and encountered the frowns of many of his ancient friends, from a sacred regard to the Constitution and welfare of his country. This will be his reward. He will then stand forever in a niche of the temple of Fame, associated with those pure and exalted patriots who have sacrificed all selfish considerations to save the country.

As for our party, we want neither patronage nor power, from John Tyler. We shall give him a liberal and manly support whenever we believe he deserves it. Let all the offices and all the honors be given, with our hearty consent, to those who elected him.

When I rose in reply, I had intended to reciprocate the kindness of the Senator, and make a speech to the Whig caucus for him, as he has done to the President for me. It was my purpose to have presented to the Senate a faint imitation of what I conjecture he must have said on that night of sorrow and gloom. I think I know the Senator well enough to imagine just such a speech as he must have made upon that occasion. But I forbear.

It must have been both eloquent and efficient; for I believe, in my soul, that no other drill-officer in existence could have reanimated his dispirited and scattered forces, and again brought them up to the charge in solid column, to sustain such a thing as this "Fiscal Corporation."

TO MR. FLINN.[1]

WASHINGTON 5 September 1841.

MY DEAR SIR/

I thank you for your kind & acceptable letter & feel much gratified that the honest & incorruptible farmers of your county have expressed their approbation of my political course. To live in their esteem would be a high reward.

The second Bank Bill, or "Kite-flying Fiscality" is now before President Tyler; and I have no doubt but that it will share the fate of its predecessor. Should the second veto be of a firm & manly character precluding all hope of the establishment of a National Bank during the present Presidential term, it will be as it ought to be hailed with enthusiasm by the Democratic party. In Congress we shall pursue the straight line of political duty & shall yield to the measures of the President so far as the[y] may be in accordance with our principles, a cheerful & hearty support. As to President making;—we shall leave that to the people where it ought to be left.

I should be pleased to see you established as the Editor of a Democratic paper. That is a much more honorable & independent vocation than to be hanging about the public offices here as a subordinate clerk. Should you become the Editor of the Mercury, however, whilst I am deeply sensible of your kindness, I would not wish you to bring out my name as a candidate for the Presidency. It is yet too soon to agitate this question in the Public Journals; and any premature movement would only injure the individual it was intended to benefit. Besides, I have no ambitious longings on this subject. Let events take their course: and my only desire is, that at the proper time, the individual may be selected as our candidate who will best promote the success of the party & its principles.

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[1] Buchanan Papers, Historical Society of Pennsylvania; Curtis's Buchanan, I. 456.

I am rejoiced at our flattering prospects in Pennsylvania. Should the Keystone State come "booming" into the Democratic line in October next, by a handsome majority, this auspicious event will do much to prostrate the present Whig party.

With sentiments of regard, I remain your friend

JAMES BUCHANAN.

MR. WILLIAM FLINN JNR.

REMARKS, SEPTEMBER 6, 1841,

ON THE DUTY ON RAILROAD IRON.[1]

Mr. Buchanan said he hoped his amendment, proposing a repeal of the act of the 14th July, 1832, would be taken up now. He had suffered so much from his good nature in withholding his amendment to oblige, that he should be more careful hereafter. The amendment of Mr. B. was to repeal all laws admitting railroad iron free of duty, and fixing a duty of 20 per cent. thereon.

Mr. Huntington withdrew an amendment which he had offered, limiting the operation of the law until after the year 1842; when

Mr. Berrien moved an amendment that the repeal should not go into effect until after the 3d March, 1843.

Mr. Buchanan having already said so much on the subject of railroad iron, would now confine himself to a very few remarks. He considered the act of the 14th July, 1832, allowing a drawback of the duties imposed on this iron in favor of States and incorporated companies, to be unjust towards the great body of the people and destructive of the just claim of Pennsylvania to enjoy a fair equality with her sister States. He thought that on every principle of just legislation it ought to be immediately repealed without any exception whatever, unless it might be in favor of such States and companies as had already issued orders for railroad iron which had not yet reached the United States.

But the act was on the statute book—it was not limited in point of time, as it ought to have been, to a certain number of years; and, under such circumstances, he would be compelled to yield a portion of that which he believed to be strict justice, and

[1] Cong. Globe, 27 Cong. 1 Sess. X. 431.

to accept what he could obtain. Necessity had no law; and he feared, from the vote in the Senate when the subject was last before it, he could do no better for the interest which he represented than to accept the amendment as now modified by the Senator from Georgia [Mr. Berrien.] It fixed a time, the 3d March, 1843, beyond which this act would no longer exist; and, in the mean time, it imposed a duty of twenty per cent. ad valorem, not subject to drawback, on the importation of all railroad iron, except in favor of those railroads the construction of which had been already commenced by States or corporations. He accepted this amendment only because he felt that he could do no better.

REMARKS, SEPTEMBER 7, 1841,

ON THE REVENUE BILL.[1]

Mr. Buchanan said that this bill was far, very far from being what he could desire. Its provisions had been greatly improved on its passage through the Senate. Its most exceptionable features had been stricken out. Coffee and tea would continue to be free articles, and an approach to justice had been made in regard to railroad iron. Besides, it subjected silks and wines to a duty of 20 per cent. which he entirely approved, and he had no doubt would be sanctioned by a large majority of the people of Pennsylvania. The finances of the country were in a most deplorable condition, and the bill would contribute to relieve the Treasury. But, above all, he was instructed on the subject. The language of these instructions required him "to vote for such re-modification or adjustment of the tariff as may increase the revenue derived from imports equal to the wants of the National Government, so that at no time hereafter, under any pretext whatever, shall any money arising from the sales of the public lands be used by the General Government." This instruction was certainly very vague, and the bill would not accomplish the object which the Legislature had in view, but still it went some distance towards that object. Under all these circumstances, he had determined to vote for the bill.

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[1] Cong. Globe, 27 Cong. 1 Sess. X. 438.

REMARKS, SEPTEMBER 10, 1841,

ON PRESIDENT TYLER'S BANK VETO.[1]

Mr. Buchanan said he was most happy to concur in opinion with the Senator from South Carolina [Mr. Preston] in one particular. Whilst the late veto message was mild and conciliatory in its terms, it was firm and determined in its spirit. It precluded all hope of the establishment of any National Bank, or corporation, with private stockholders, as long as John Tyler shall continue to be the President of these United States. He congratulated the country upon this auspicious event. He believed that it would be hailed with pleasure by a majority of the people of the United States. Business would now flow in the regular channels of trade, without being disturbed by political agitations respecting the currency and the establishment of a National Bank.

He also agreed with the Senator in another particular. It was very clear that the mode of collecting, keeping, and disbursing the public revenue, ought to be prescribed by law. On this subject, above all others, there ought to be as little left to Executive discretion as possible. But necessity had no law, and it was impossible, before the close of the present session, to mature any such financial plan. The majority in Congress had passed two bills to effect this purpose, both of which had received the decided negative of the President. In his late message, he had stated that from the pressing nature of the public business throughout the present session, it had been impossible for him to mature any system for regulating the financial operations of the Government; but he had promised to prepare and suggest such a plan for the consideration of Congress at their next meeting. It was both his right and his duty to make such a recommendation; and for his (Mr. B.'s) own part, he was disposed to afford the President the opportunity which he desired.

The two plans adopted by Congress had been vetoed by the President, upon such principles as rendered it impossible to resort to a Bank of the United States. On the other hand, the Independent Treasury, which he preferred to any other system which had ever been suggested, had been condemned by a decided majority of both Houses of Congress. It was evident, then, that some course, distinct from the one or the other, must be adopted, or the

[1] Cong. Globe, 27 Cong. 1 Sess. X. 446.

public money must be left without the regulation of law. Under these circumstances, he was disposed, for one, to adopt any reasonable middle course which might be suggested, provided that it kept entirely clear of the establishment by Congress of any banking corporation, of any description whatever. He would say, however, that of all plans which human ingenuity could suggest, he believed that of the Independent Treasury was the best; and he felt an abiding confidence that the people of the United States would yet adopt and sanction it.

TO MR. LEIPER.[1]

LANCASTER 23 October 1841.

MY DEAR SIR/

I most sincerely sympathise with you in your domestic afflictions, and trust that he who tempers the wind to the shorn lamb may comfort & sustain your daughter in her distress.

I reciprocate your congratulations on our recent victory with all my heart. It is a great moral triumph. After the late Presidential election many who had formerly felt an abiding confidence in the integrity & intelligence of the people, began to waver. The ridiculous mummeries which apparently had an effect upon them were insults to their understanding.—But nobly have they redeemed themselves & have proved to the world that if they can be made to slumber over their rights for a moment they are certain to awake with a firmer determination than ever to maintain them. Governor Porter has now a fine opportunity of distinguishing himself; and most ardently do I hope that he may embrace it. By doing his duty fearlessly, he will make a name for himself which no other Governor of Pennsylvania has ever yet enjoyed. On the other hand, should he falter, we shall lose the State, if not at the next election, at the next Gubernatorial contest. He must devote himself to reforming the administration of our internal improvements & rendering them productive;—he must firmly resist any increase of the State debt;—and if he does no more, he must veto every Bill to create a new Bank or renew the charter of an old one. These are principles on

[1] Buchanan Papers, Historical Society of Pennsylvania; Curtis's Buchanan, I. 455.

which the Democracy will insist. Besides, he ought to recommend & urge a thorough investigation of the Bank of the U. S. & the Penna. & other Banks. The time has passed for consulting mere expediency: & the Democratic party has risen again upon its principles & it will continue to stand no longer than it maintains them.—I do not think that the Presidential question to which you allude will occasion any serious embarrassment to the party. Throughout the Union, with the exception of Philadelphia, they all appear to be alive to the necessity of forbearance. When the proper time shall arrive, the choice of a candidate will be made without serious difficulty; because I believe that the candidates who will be the most prominent are all willing to yield their pretensions, if that should be found necessary to promote the success of the great causes.

Please to remember me, in the kindest terms, to your family & believe me to be your friend sincerely

JAMES BUCHANAN.

GEORGE G. LEIPER ESQ.

REMARKS, DECEMBER 21, 1841,

ON A BILL TO DEVOTE THE PROCEEDS OF THE SALES OF PUBLIC LANDS TO THE PUBLIC DEFENSE.[1]

Mr. Buchanan addressed the Senate as follows:

This, sir, is a very important question. It is a measure which will not only deeply affect the feelings of Senators, but of the whole community. My only desire, therefore, is that it shall go to such committee as will insure its impartial consideration, and give a fair report on the subject to the country. It is of little importance to contend that it should be referred to one standing committee, or to another. That, sir, is the reason why I am in favor of a select committee; for unless it goes to a select committee, if Senators have not greatly changed their mind, it will go to its death. If a select committee be decided on, I have full confidence in the honorable President's impartiality in the selection. I am satisfied that he will appoint such committee as will give the subject a fair consideration. If there is any standing committee to which it ought to be referred,

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 41.

it is the Committee on Finance. I confess, sir, with the Senator from South Carolina, [Mr. Preston,] that I am shocked at the condition of our finances, as reported by the Secretary of the Treasury. This seems strange, for our commerce has been increasing. We now export more than we import; the revenue has gone beyond the estimates of the year; and yet, we are told in this report, that without any further expenditure than what our existing laws and policy require, we shall have a deficit in the Treasury for the next year, of fourteen millions, and some hundred and odd thousand dollars. And how is it proposed to meet this enormous deficit? Why, truly, the time of payment on the balance of the loan authorized last session is to be extended to eight years; that is, on six millions and a half. We are to raise five millions more by Treasury notes; and the remainder of the deficit is to be raised by increased duties on our imports. That, sir, is our condition; and in this condition, without reference to the question of the distribution of the paltry proceeds of the public lands for the present year among the several States, we shall be called upon to furnish the Treasury with the means of meeting this deficit. Sir, the Committee on Finance ought to take this subject up as a financial measure. They ought to see that there was an entire mistake made when they consented to give away any portion of the public property for the benefit of the States or any one else. I agree essentially with the Senator from South Carolina, [Mr. Preston,] if we are to have war—though I do not fear it—the very best foundation on which to rest our hopes—the very best means of nerving the national arm—is to have a sound condition of the Treasury. And in order to effect that, there is but one course, and that course is economy; economy, not in our professions, but in our practices. Let us not spend one dollar, unless the interests of our country demand it. In what condition would we be placed if we were to go on at the proposed rate of expenditure another year? The Postmaster General proposes that we shall increase our public debt eight millions of dollars, and that at the interest of five per cent. per annum, amounting to four hundred thousand dollars. And this to sustain the railroads of the country, and facilitate the transmission of the mail. I have not had time to read the report of the Secretary of the Navy, but I understand it is an able, nay, a splendid document. It proposes, I am told, to increase our navy to half the size of the British navy, without

considering that the cost of our navy, man for man, and gun for gun, is probably double that of the British navy. Thus, with a revenue deficient fourteen millions of dollars, we are indulging in the most splendid prospects of glorious schemes. Sir, I am in favor of economy; but whilst I am in favor of economy, I would not neglect the proper defenses of the country—I would not yield a particle of our rights to any nation on earth. But we must come down from our high notions. When we are in such an encumbered and embarrassed condition, we ought to think of paying off our debts before we think of such splendid schemes. And if I were in favor of distribution—if I were in favor of it as a matter of public policy, to take from the revenue the proceeds of the public lands, it certainly would not be until after the payment of the public debt and after our finances shall be re-established. Sir, I am anxious that this bill should be referred to a select committee, and that such a committee may be appointed, as will make a report furnishing full information to the country.

REMARKS, DECEMBER 28, 1841,

ON A BILL TO POSTPONE THE OPERATION OF THE BANKRUPT LAW WITH A VIEW TO ITS AMENDMENT.[1]

Mr. Buchanan had endeavored last session to illustrate the matter—twenty years ago he had investigated this subject, and stated then, as he did now, that such a bankrupt law must be wholly impracticable. When five hundred thousand bankrupts, or even one hundred thousand, are to take the benefit of the act, and must all pass through the Federal courts, it must necessarily be an impracticable law. There is no alternative but either to augment the Federal district courts to meet the occasion, or to suspend the law itself. The Constitution gave to Congress alone the authority to pass bankrupt laws, and the principle had been decided, over and over again, that the cases of bankruptcy arising under them must be decided by the courts of the United States. On the immediate question of reference to one committee or another, he had nothing to say. All he would do, would be to call on gentlemen to whom it might be referred, to say how the Federal district courts are to accomplish all the

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 63–64.

duties this act will throw upon them, or how the cases brought into court the first month of the operation of the law can be discharged within the next seven years.

Mr. Buchanan had already stated he did not believe that with the present judicial courts of the country, the Bankrupt law could be executed. He did not propose to go into the merits of the measure itself, nor to allude to the change of public sentiment in reference to it. He confined himself to the view of the utter impracticability of the act. If attempted to be carried into effect on the 1st of February, as specified, it will soon be found whether his friend from New York, [Mr. Tallmadge,] or himself, was right. The law of 1800 he cited as evidence to show that this bill would be more difficult of execution than that. It embraced more cases, and was more extensive. Cases were to be determined in the circuit courts on the different circuits, and this would lead to an overwhelming amount of business. Sixty days, his life on it, would prove it true that the bill could not be enforced. It would, for this reason, soon become unpopular, and then odious. The courts in New York would not be enabled to get through their business.

Mr. Henderson said he appreciated in part what had been said by the Senator from Pennsylvania. He pointed out difficulties without pointing out the manner in which they could be obviated. All the courts were open, accounts could be audited, and, being audited, were settled under a form known and prescribed in this bankrupt law. Cases there might become extremely litigated, and present embarrassments, but not to the extent mentioned by the Senator from Missouri and the Senator from Pennsylvania.

SPEECH, DECEMBER 29, 1841,

ON THE QUESTION OF ESTABLISHING A BOARD OF EXCHEQUER.[1]

On the motion of Mr. Tallmadge to refer the report of the Secretary of the Treasury on the subject of an Exchequer Board, &c., to a select committee—

Mr. Buchanan observed, that when this subject had been before the Senate a few days since, it had been, at that time,

[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 43–46.

his intention to submit some remarks upon it; and subsequent reflection had strengthened the conviction that it was his duty now to express his opinion of the letter of the Secretary of the Treasury and the draft of a bill for the establishment of a Board of Exchequer by which it was accompanied. Were this a mere recommendation from the Secretary, containing the individual views and opinions of that officer alone, Mr. B. should not deem it proper, in the preliminary stage of the proceeding, to go into an investigation of the subject. But such was not the case. This fiscal plan came before the Senate in a novel and imposing form. They had been told in the letter itself that it was a plan in favor of which the President and his whole Cabinet were united after much deliberation and reflection. The bill to establish this Exchequer Board had been drawn with the utmost care, and the letter which preceded it contained an argument in support of the measure as able as any he had ever seen presented to Congress. It was clear in its statements, logical in its deductions from the premises assumed, and well calculated to produce a striking impression upon the country.

Under such circumstances, and particularly as it had been everywhere circulated that Mr. B. was in favor of the plan, it was a duty he owed to himself and not less to the party with which it was his honor to act, to state briefly his opinions in regard to it. He could say, with the most perfect truth, that he had felt, and still felt, every desire to support any measure which should be recommended by President Tyler for the collection, safekeeping, and disbursement of the public revenue; because, in common with millions of his fellow-citizens, he owed him a deep debt of gratitude for having arrested, by the two vetoes of the last session, the "Fiscal Bank" and the "Fiscal Corporation," then presented to him for his sanction. He had never been more sincere than when, at the close of the last session, he had declared himself ready to take almost any measure temporarily, which the President might recommend for the fiscal purposes of the Government. He was disposed to put into his hands a *carte blanche,* provided he confined his recommendation to the constitutional objects to be accomplished. But when the President extended his plan beyond that limit, when he proposed to issue a Government paper currency, and put the public money in jeopardy by placing it in the hands of speculators, or lending it to merchants or to anybody else, the plan must encounter his determined opposition. It was right that

the country should know the opinions of Senators on this subject, and know them now. The energy and industry which marked the American character were such that, if the people were left to themselves, they would soon relieve the country from its present depressed condition, and elevate it to its former prosperity. But, as long as the people were looking to Congress for relief, their energies would be paralyzed—they looked to a source whence no effectual relief could ever come; and, while thus waiting and hoping, they were led to neglect that industry and economy which alone could elevate them to their high destiny.

Mr. B. went on to say that he had viewed the plan submitted by the Secretary in every aspect, and he could see nothing, nothing in it but a great Government Bank; its business was to be conducted exclusively by the Government; its capital was to be furnished exclusively by the Government; its paper was to be issued exclusively by the Government—from first to last it was nothing but a Government Bank.

What were the functions of a Bank? of a Bank of the most general character? It received deposits, it issued a paper currency, and it loaned money on bills of exchange or on promissory notes. These were all the three functions which could properly belong to any Bank. And were not each and all of these functions to be discharged by this new "Exchequer Board?" Yet, with the greatest appearance of *naïveté,* the Secretary told Congress that this was not a Government Bank. Now, Mr. B. would first briefly state what this plan was, before stating his objections to it.

The bill proposed the establishment of an Exchequer Board, to consist of five members, and to be located at the seat of Government. The Secretary of the Treasury and the Treasurer of the United States were *ex officio* to constitute two of its members. In addition to whom, there were to be three commissioners, appointed by the President, by and with the advice and consent of the Senate, who were to hold their offices for six years, and might be reappointed. One of the three was, at first, to be appointed for two years; another for four; and the third for six; so that there might be a change of one commissioner every two years. These officers were to be removable at pleasure; no, he was wrong; they were to be removable in case of physical inability, incompetence, and neglect or violation of duty. And what was to be the power of the Board thus consti-

tuted? They were to establish fifty-two subordinate boards, which might be scattered all over the country. There were to be branch agencies; not exceeding two in each State of the Union. From the letter of the Secretary and the bill, it might be fairly inferred that there would be three principal officers at each agency, and there could not be less than two; so that in the branches there would be a body of 156 officers, scattered throughout every portion of the Union to perform the business of this Exchequer Board.

All these branch officers and agents were to be appointed by the Secretary of the Treasury "on the recommendation of the Board of Exchequer; and the said Board shall have power to fix the amount of the respective compensations of such officers, and to provide regulations for the government of such agencies." These officers were all removable by the Secretary of the Treasury.

What duties were to be discharged by this central Board and its agencies? They were to receive, keep, and disburse the public money: they were to act as commissioners of loans, and they were to perform the duty of pension agents. And here he would remark, that these humble and useful duties had been, under the act to establish the Independent Treasury, performed, the whole of them, by four Receivers General, in addition to the present officers of the Government. For the mere performance of those duties, Mr. B. had no objection to almost any plan which the President might propose. To be sure, if the present magnificent project should be cut down to the dimensions of the Independent Treasury, four additional officers only, instead of one hundred and fifty-nine, would be all that were necessary to carry it into execution.

But what were the remaining powers to be exercised by this Exchequer Board and its branches? Were they not the powers of a great banking institution? First, they were to receive private deposits not exceeding $15,000,000, which might be cut up, at the pleasure of the depositors, into certificates of deposit which, assuming the form of bank notes, were to become a circulating medium. This particular part of the scheme was left by the bill in great obscurity, as it was not expressly declared that these certificates should be received in payment of the public dues. He did not know whether this $15,000,000 would constitute a part of the active banking capital or not; or whether it would remain on deposit merely to meet

the payment of the certificates issued. He supposed it was intended to constitute a banking capital. If it were not, he should feel less hostility against this part of the plan. Some of the best banks of the world were mere deposit banks, and their only issue was bank certificates which represented gold and silver, dollar for dollar.

What was the next function of this Board? They were to put in circulation a Government paper currency not exceeding $15,000,000, in notes of a denomination not lower than five nor higher than one thousand dollars; and they were expressly authorized, according to the rules of banking, to issue three paper dollars for every gold and silver dollar in their possession. Then it was a bank of issue. Was it also a bank of discount? Could any man doubt it? It was the Exchange Bank of an honorable friend near him, [Mr. Berrien,] only withdrawn altogether from the control of private individuals, and transferred to the Treasury. That was the whole difference. Whether the Board should buy a bill of exchange, or discount a promissory note, it came to the same thing; it was neither more nor less than an accommodation loan. And it was a loan subject to all those risks to which banks, brokers, and speculators could expose it. No prudent man would ever be willing to put his own money into such hands. Mr. B. therefore took it for granted that it could not and would not be denied that this Exchequer Board was a bank.

But it had another bank feature. He meant no disrespect to the honorable Senators from Alabama when he said it was a bank purely on the Alabama principle. If the bank should run down, as it might be expected soon to do, there was a provision in the bill that the United States Government should wind it up by advancing it five millions of five per cent. loan, redeemable after twenty years, which loan might be sold in the market at any rate under par that it would bring. Now, when the General Government undertook to deal in banking, it might calculate on the same fate which had attended banks owned by States. From statements Mr. B. had lately seen, it appeared that the Alabama Bank had got through five millions of its capital, and was in a very fair way to get through with the residue. [A laugh.] This would be a Government bank, conducted with great extravagance and little care, as all Government banks must be, where private and individual interest was not brought to bear on its concerns.

Mr. B. said he would now proceed to state a few objections to this plan.

And, in the first place, the Whig party of this country had ever professed to regard the curtailing of Executive influence as the great polar star of all their political movements. Every distinguished Whig Senator had deprecated this influence as one of the greatest of all evils. The very distinguished Senator from Kentucky [Mr. Clay] had this morning repeated on this subject sentiments which he had heretofore presented, over and over again, in that Chamber, and the poor Independent Treasury bill of Mr. B.'s party had been assailed, and with the utmost effect, on that very ground. The country had been alarmed at the vast and extensive patronage to which it would give occasion. The thought of the appointment of four receivers general had struck terror and alarm through the hearts of all his Whig friends. But what had we here? There were three commissioners, besides the Secretary of the Treasury and Treasurer, to be appointed and to reside at Washington, with fifty-two subordinate agencies all over the country, each requiring the additional appointment of three principal officers, to say nothing of subordinates. Here was a corps of officers of at least two hundred individuals, great and small, presenting two hundred places very convenient indeed for the friends of any Administration which might desire to secure and reward their services. Mr. B. here again protested that he intended no personal reflection on the present Chief Magistrate in the remarks he now made. He did not entertain the remotest fear that President Tyler would ever abuse his trust. Public liberty was not in the least danger from him. Mr. B. was governed entirely in the ground he now took by general principles of policy, and not by the slightest possible disrespect to the present Chief Magistrate.

What he had stated was, however, the smallest objection to the bill; for it went to effect a perfect concentration in the hands of the Executive of both the political and the money power. How could it possibly be supposed that any honorable Senator belonging to the party with which it was Mr. B.'s happiness to act could ever adopt a plan of this description? That party had always been strenuously opposed to any Bank of the United States, and especially to the two "Fiscalities," which had been vetoed by President Tyler. And why? Without adverting to constitutional objections, chiefly because the United

States were to be large stockholders; because the President was to appoint a portion of the directors, and because these directors were to reside at Washington, under the immediate influence of the Executive. They had always condemned the connection of a great money power with the political power of the Government. But here in this bill all masks were thrown off. Here was a Government Bank, not owned in part or controlled in part by the General Government, but belonging altogether to that Government, and having all its officers appointed by Executive authority. And yet they were told, forsooth, that this was an "intermediate measure." So far from it, that, with the single exception of the facility of repeal, it was an extreme measure; it went far beyond the National Bank, which his party had always opposed. Here was an institution not merely connected with the Government, but in all respects a complete Government Bank. And yet the Senate were told that this measure presented "a common platform on which all might unite." Would to heaven that it were! All Mr. B.'s habits and feelings would induce him to rejoice at the discovery of a measure of that character, and he would be one of the very first to rush into union on any such common ground.

He remembered well, he never could forget, the speech formerly delivered by the honorable and distinguished Senator from Kentucky [Mr. Clay] on this subject. A printed report of that speech was now before him. The title page, as it was a very long one, he should not read.

[Mr. Clay here interposed, to ask that it might be read by all means.]

Well, said Mr. B., since the Senator desires it, I will read it. A poet has said that "the world's all title page; there's no contents." But that remark would not be just if applied to this speech, for there is a great deal of good reading in it besides the title.

[He then read the title page in full, the great length of which produced much laughter. It is as follows:

Speech of the Hon. Henry Clay of Kentucky, establishing a deliberate design, on the part of the late and present Executive of the United States, to break down the whole banking system of the United States; commencing with the Bank of the United States, and terminating with the State Banks, and to create on their ruins a Government Treasury Bank, under the exclusive control of the Executive; and in reply to the speech of the Hon. John C. Calhoun of South Carolina, supporting that Treasury Bank. Delivered in the Senate of the United States, February 19, 1838.]

There's a title for you! Now, on what principle had the honorable Senator contended that Mr. B. and his party were in favor of a great Government Bank? They had not proposed to lend any money, nor to issue any bank paper. Their plan, the Senator had contended, contemplated a bank of issue, and what did gentlemen think the issue was to be? Simply drafts by the Treasurer of the United States on the depositories in different sections of the country, in discharge of debts due by the Government, a practice which had prevailed since the origin of the Government, and must continue as long as it was a Government. Yet the honorable Senator, snuffing danger in every tainted breeze, considered these drafts as forming the paper currency of a tremendous Government Bank. And although the drafts were required to be paid within as short a period as possible after the date of their issue, still it was to be a great Government Bank. What must the Senator now think of his own political friends? Even the Senator's fears of what the Independent Treasury might become, were thrown perfectly into the shade. Instead of Treasury drafts payable within the shortest period, here was a regular issue of paper bills at the rate of three for one dollar in specie, with as complete a system of exchange as would have resulted from the adoption of the Exchange Bank bill, so properly vetoed at the extra session. What would the President become, according to this plan? He was already the great fountain of political patronage; and he was to become the head of an immense moneyed institution. If this bill should succeed, the speculators and politicians of the whole country would be coming here to court the President or his Secretary for loans, just as eagerly as men now crowded to Washington for offices. Protesting always that no remarks he should now make had the remotest application to President Tyler, he put the case of an ambitious and dangerous man being at the head of the Government—an Aaron Burr being in the chair—and let him have it in his power to control the whole of the public revenue; let him have at his disposal all the money of the people; with which to purchase the services of political partisans on the eve of a great Presidential election, and what would become of the national liberty? All they had formerly heard about a union of the purse and the sword was mere idle declamation; but here was that union in reality, and without a veil. All the money of the people was to be subjected to the

Executive disposal, and the President was to become at once the fountain of individual wealth as well as of political power. The Treasury Bank was to be completely and exclusively under the control of the Government; and an able, who should be at the same time a bad man, would be in circumstances, by the use of this double power, both political and fiscal, to spread unbounded corruption throughout the community, to subsidize the venal to the purposes of his ambition, and so to corrupt and to impair the liberties of his country, that they would be no longer worth preserving.

Mr. B. went on to observe, that it might perhaps be urged, in reply, that by this plan the bills of exchange in which the bank could deal, were such only as had but thirty days to run. Very true;—that was the restriction in the bill; but let this great bank once get fairly into operation, let the money of the Government become the capital of the bank, and how easily might that limitation be extended? But even as it now stood, there was, in fact, as much danger to be apprehended as if the bills were allowed to run ninety or one hundred and twenty days. It was said that the dealings of the bank were to be confined to *bona fide* business transactions; but that was impossible, utterly impossible. There was no attempt to do this on the face of the bill, and if there were, it never could be carried out in fact. A man in Philadelphia would go to the bank and present a bill of exchange on Boston, duly accepted, and get the money for it; when the bill became due, the acceptor in Boston would draw a new bill on the first drawer in Philadelphia, and, with the proceeds, pay the original bill; and thus a perfect system of kite-flying and race-horse bills would take place, just as it would have done under the Fiscal Corporation. The only difference would be, that here the kite could fly only for thirty days at a time, and the kite-flyers would have to repeat their operations every thirty days, instead of every ninety or one hundred and twenty days.

Mr. B. further insisted that the issues of the Exchequer Board would be purely a Government paper—that, and that only. Let this Bank get fairly under way, and its history would be the history of the Bank of the United States over again. The public treasure would pass into the hands of speculators, and the "suspended debt," within one year, would amount to millions. Mr. B. here quoted from the bill, to show of what the issues of the board were to consist, namely, of bank notes in which the United States would promise to pay, signed by the Treasurer,

countersigned by the President of the Board, and payable to the order of the principal agent at the different branches.

The chief means relied upon to give this paper money an extensive circulation, were the operations of the Exchange Bank. Without this, in the opinion of the Secretary of the Treasury, the scheme would prove to be a failure. Let him speak for himself:

"These notes," says he, "can get into circulation, and be kept in it, only in two ways: first, by payment in such notes of debts and demands on the Treasury; and, second, by buying domestic exchange. And it is the last of these modes which is most confidently looked to as furnishing an active and continual circulation of this paper. When issued in Government payments, at distant points, the general tendency of the notes will be from those points to the great Atlantic cities, according to the course of trade; thus leaving the place of their first issue without the benefits of their circulation. But it is evident that if the agencies at those distant points shall be authorized to purchase bills of exchange, a new source for the issue of sound circulating paper will be opened, and the exchange thus bought would be remitted, wherever the demands of trade should call for it."

Now, these were called Treasury notes; but with what justice or propriety? What was a Treasury note? merely a mode of borrowing a sum of money by the Government instead of funding the public debt. Treasury notes were issued to Government creditors or in payment of a Government loan. But with what justice could these issues be called Treasury notes? They were payable on demand, but did not represent dollar for dollar in specie. For every five dollars in the vault, fifteen dollars of this paper might be issued; and this was to be used, not in discharging the debts of the United States; not in consideration of loans effected for the legitimate purposes of the Government; but in buying bills of exchange from private individuals. And this was to be done for the purpose of regulating the exchanges; when we all know that they will be regulated the moment the banks shall honestly and in good faith resume specie payments. These notes constituted in every respect a Government paper money. And what had the past history of the world invariably demonstrated to be the fate of such money? Was there one country under the sun which ever had tried it and had not been a sufferer from the experiment? Everywhere its value had depreciated from day to day, until at length it had sunk to nothing. The two most striking examples of this were to be seen in the assignats issued during the French revolution, and the continental money of our own Revolutionary days. In both cases, indeed, the paper accomplished a glorious purpose—it established

and sustained public liberty, and enabled each of these nations to resist and to overcome a despotic power: but as a currency, as money, it sank and sank till at length it lost all value. And should we, in these piping times of peace, when the people were abundantly able to pay all the expenses of Government, resort to an expedient suited only to the most desperate emergency, and of so tempting and seducing a character as to have been abused by every Government that ever had resorted to it?

Then this Bank was to have a circulation of fifteen millions, an amount beyond the average circulation of the old United States Bank in its palmiest days. The average of her circulation had been but from eleven to twelve millions; but here was a great Central Board, with fifty-two agencies, and a circulation of fifteen millions! This would expand the paper currency of the country, promote speculation, produce a delusive prosperity, and, in the end, when the bubble burst, would place us in a condition much more deplorable than we were at present.

But the facility with which the issue of paper money by a Government might be abused in involving the country in debt almost without its knowledge, was demonstrated by the provisions of the present bill. This was a bill, in effect, to borrow fifteen millions of dollars. That was palpable. On five millions actually in the Treasury, the Bank was to issue fifteen millions. Here was a loan of ten millions at once; then, when the Bank should run down, which it soon would do, Government was to lend it five millions more, in certificates of loan issued by the Treasury Department to the Exchequer Board. Here were ten millions of debt incurred at once, on the one-to-three principle, and the five millions more of the Government make up, in fact, a loan of fifteen millions—a loan of which no man, woman, or child could have dreamed, on a mere perusal of the bill; yet it was demonstrable; it must be so. It was the issue of a paper money, without even the pretence of a specie basis beyond one for three for its support.

Mr. B. said he had never been a great friend to the existing banking system of the United States; he believed it was fast going to ruin; it contained the elements of its own destruction within itself. Let it go; he should give it no impulse; he would leave it to itself. In that respect he would not say whether this new Government Bank would work good or evil; but certain it was that it would soon make an end of the State banks. It went to invade their most precious prerogative. It was empowered

to issue five dollar bills, whereas hitherto Treasury notes had never been permitted of a less denomination than fifty dollars. In issuing notes of so low a denomination as five dollars, it would come into immediate competition with every petty local bank in the country, and they must go down. It was a sad retrograde movement in another respect. Experience had shown that there never could be a sound specie basis maintained for a paper circulation when bank bills were allowed to be issued as low as five dollars. The Democratic party had been struggling to get twenty dollars fixed as the lowest point, and leave all sums below that to be paid in specie, so that laboring men might receive their wages in gold and silver, and leave the merchants and capitalists to receive the bank bills; but here the denomination was to be reduced to five dollars, and that with a circulation exceeding by millions the average circulation of the old Bank of the United States.

[Mr. Benton, speaking across. Yes; and they will soon have it down to one dollar.]

Yes; they may get it down even to that.

Mr. B. said he should feel much greater alarm in contemplating this new scheme of a Bank, were it not that he believed in his soul that, as a financial measure, it would wind itself up in six months. Why, where would the centre be at which these notes would accumulate? The Exchequer Board might send its bills north, south, east, and west, but the point where they would arrive at last, after performing their tour of circulation, would be Wall street. New York was and must be the settling place for the Union. There specie was demanded for exportation. These notes would be hoarded in the West to pay debts contracted in New York and the other Atlantic cities. They would be better for this purpose than the local circulation, because they were receivable in payment of duties. Then let the balance of trade against us at any time produce a sudden demand for specie from abroad; on whom must it first fall? The local banks would take care to protect themselves as well as they could; they would hoard these Treasury notes in their vaults, and the first run would be on the Treasury of the United States. And in what condition would the Treasury be to sustain a run, after the issue of fifteen millions of paper on five millions in specie? The Treasury itself must blow up. The scheme would succeed in one way, certainly —Captain Tyler would be headed by it more effectually than by all the contrivances ever yet thought of. Then the cry would

immediately be heard, "Well, you see the last experiment has failed, and now there is nothing else for it, but we must have a good old fashioned Bank of the United States." However, exclaimed Mr. B., in any event, Uncle Sam will be safe—he can't be sued! [A laugh.] It is certain, he cannot take the benefit of the Bankrupt law. But this law may be highly useful in another respect. Political speculators may incur debts to any amount by borrowing money from our Exchange Bank, and may then pay them by taking the benefit of the Bankrupt act. The two plans will work admirably together. [A laugh.]

They of Mr. B.'s party had long been making war on the principle of allowing the money of the people to be used for any purpose but paying the public debts. It was this which had ruined the deposit banks; yet that very thing which had ruined them this Government was asked now to do, and yet to expect not to lose a great part of the money loaned. In the very able letter of the Secretary of the Treasury, it was stated to be one of the greatest recommendations of the new Exchequer scheme, that the money of the people would not be locked up, but would be loaned out, through the agency of this Government Bank, for the benefit of the people!

With all personal respect for the President of the United States, Mr. B. confessed that he viewed this scheme with dismay. What was it that had impaired the public morals, and, beyond all other things, injured the character and credit of the country? Was it not bank defalcations? Was there a day passed that we did not hear of new frauds and forgeries, and new defalcations and elopements? The thing had got to be so common, that it no longer produced any sensation. And where were the men who had been guilty of these crimes? In our prisons and penitentiaries? Not at all; they were walking about through the land; and so thorough had the contagion become, so had it blunted the moral sense of the community, that such offenders were received into society, and treated as if they never had been guilty of a crime. The case had become a proper subject for the thunders of the pulpit. The vice of swindling had become so general, and had enjoyed such impunity, that it was growing unconscious of its own malignity and baseness. And should we now, when this iniquitous system was about to run down and perish by its own corruption—when the Bank of the United States had destroyed the widow and the orphan, and plundered all who had trusted to it, open a new fountain of corruption to flood the land,

by establishing a new Government Bank, on principles as false and baseless as those of the worst institutions in the country? He trusted not.

A few words more, and he was done. He asked where was the warrant in the Constitution for such an institution? Would any gentleman point it out to him? Did a scheme like this come from the good old school of Virginia abstractions? Was this in accordance with the principles of the ever-memorable resolutions of 1798 and 1799? By what mode of construction could such a measure be warranted? Was such a thing as this Exchequer Board a necessary or proper means to carry into effect any of the enumerated powers of this Government?

This bill, in its leading principles, had been shadowed forth on this floor in 1837; but Mr. B. had then resisted the giant intellect which brought it forward. It was then contended that the United States Government had a right to issue paper money for circulation, and to control the issues of the State banks. Yes, this same scheme had been shadowed forth by the great expounder of the Constitution—one who had earned that title by adopting, he doubted not honestly, the utmost possible latitude of construction which could be put upon that sacred instrument. Mr. B. had then felt proud in opposing it, and had been much gratified to know that the Senator from Kentucky [Mr. Clay] concurred with him in opinion. But what had become of the constitutional argument now? The power was taken for granted in the letter of the Secretary of the Treasury. It was deemed so clear, Mr. B. presumed, that it was not thought necessary even to allude to it. The question was not argued or referred to in the remotest manner. Mr. B. had, in 1837, denied the power to regulate the paper currency, as not to be found in the Constitution. It was then claimed as incidental to the power to regulate commerce. What sort of a construction was this? Our fathers were jealous of Federal power. In the Constitution that power was dealt out with a reluctant hand. The power to regulate commerce had been granted simply for this reason: different States of the Confederation had imposed different rates of duty on the importation of foreign articles, and those States whose tariff was the lowest introduced the goods from abroad, and then pushed them into the States which exacted a higher duty; and thus a perpetual war of custom-houses was maintained. Besides this, we were unable to make any commercial treaty with a foreign nation, because the Gov-

ernment had no power to enforce its observance. Hence the power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

This mere power of regulation is the simplest of all powers. In the language of the late Chief Justice Marshall, "it is the power to prescribe the rule by which commerce is to be governed." What would the venerable patriots, who framed the Constitution, think or say, could they now witness this attempt to pervert this mere power of legislative regulation, into an authority to create a great Government Bank, and to issue millions of the same kind of paper money which they had solemnly condemned in the Convention? A power to regulate necessarily supposed the previous existence of some thing to be regulated. It was essentially different from a power to create. Thus the Constitution had conferred on Congress the power "to coin money." This was the creative power: and then after this money had been called into existence, came the power "to regulate the value thereof." Commerce, both foreign and domestic, was in existence when the Constitution was adopted; and it simply conferred upon Congress the power to regulate; that is, "to prescribe the rule by which it was to be governed."

A similar course of argument might be adopted, with much greater plausibility, to prove that Congress possess the power to enter the territories of the sovereign States, and, without their consent, construct railroads and canals. It might be said that commerce could not be conducted without railroads and canals, and therefore Congress possess the power to construct them. By the same course of reasoning, the Government might itself engage in commerce to prevent it from languishing for want of private capital, and like the Bank of the United States become a buyer and seller of cotton as well as of exchange.

It was also urged in 1837, that the "power to coin money and regulate the value thereof," conferred the power to create paper money; that is, because Congress can establish a mint for the purpose of coining gold and silver, that, by construction, they possess the power also of establishing a paper money mint, such as this Exchange Bank, to cover the country with their own bills of credit. The very power to coin hard money, which is, from its nature, exclusive of any power over paper money, is that which has been seized upon to prove that paper money may be emitted under the authority of Congress. This seemed to him to be a monstrous and revolting inference.

This power is claimed by such inferences, in the very face of the solemn action of the Convention on the very subject. Under the old articles of Confederation, Congress possessed the power "to borrow money *or emit bills on the credit of the United States.*" The Convention which framed the present Constitution expressly denied to Congress this power of emitting such bills of credit. Twice was the attempt solemnly made in the convention to confer this very power on Congress, and twice did it signally fail. Yet this power, which was stricken out of the articles of confederation, and was twice expressly refused by the convention, was now contended to exist, in its utmost latitude, as an incident to the commercial and coining powers! This attempt never sprang from the glorious old Virginia school of strict construction. By such a mode of reasoning, an ingenious man might find any power which he desired to exercise, slumbering in the text of the Constitution.

Mr. B. concluded by repeating the assurance that no remark made by him on this occasion was intended to apply to the present Chief Magistrate of the United States. He believed Mr. Tyler to be an honest man, and patriotic in his motives; but he had deemed it due to himself not to suffer a measure of this kind to be before the Senate for weeks and months without expressing any opinion, and then to come out and oppose it. The party with whom he acted were in the habit of showing their hands at once—in the very outset. If the President should devise any measure confined to the collection, safekeeping, and disbursement of the public money, unless it should contain some gross and palpable ground of objection, the measure should have Mr. B.'s support, in the hope that, after all experiments should have been tried, and reason should have time to prevail, the people and Government would at length return to and re-establish the Independent Treasury.

1842.

REMARKS, JANUARY 20, 1842,

ON VARIOUS MEMORIALS IN RELATION TO THE BANKRUPT LAW.[1]

Mr. Buchanan said he merely wished to correct a misapprehension which prevailed extensively throughout the country, and seemed to exist in the mind of the Senator from South Carolina, as to the extent of the necessity for the passage of a Bankrupt law by Congress.

There was no principle of constitutional law more firmly settled, than that the several States possess the power of passing bankrupt laws which shall extend to all future contracts made between citizens of the State where such a law existed. Nay, more: if the citizen of a State where such bankrupt law existed, became the debtor of a citizen of another State, and took the benefit of his own State bankrupt law, his foreign creditor would be bound by the discharge, provided he had accepted a dividend of the debtor's property. The foreign creditor would always accept the dividend, even if it were very small, rather than lose his whole debt. The only necessity, therefore, for the passage of a bankrupt law by Congress, would be to provide for the discharge from retrospective contracts, and from obligations in cases in which the citizen of another State refused to accept his dividend of the bankrupt's effects.

Mr. Berrien, in presenting a memorial from Harrisburg, remonstrating against the repeal of the law, made some remarks to prove the necessity of a bankrupt law by Congress, but distinctly admitted that Mr. Buchanan had stated the law correctly. It was true, he said, that the Supreme Court had decided that it was competent for the State Legislatures to pass a prospective bankrupt law; but it was nevertheless true that that law could not operate beyond the limits of that State. And when the debtor who had availed himself of the benefits of a bankrupt law of his State should pass the bounds of his State, he would be subjected to the action of other Legislatures upon the subject. Therefore, such laws as could be passed by the States would be found to be inadequate.

Mr. Buchanan then expressed his pleasure at their concurrence in opinion on the points of constitutional law, and

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 148.

reiterated his statement of the law as it now stood, in order to fix the attention of the country upon it. A discharge under a State bankrupt law was absolute between citizens of the same State, and would release the debtor from all contracts in every State of the Union as against all foreign creditors who had accepted a dividend. This would be accepted in every case where the debtor had not held on until he had exhausted his whole property.

REMARKS, JANUARY 20, 1842,

ON THE ISSUE OF TREASURY NOTES.[1]

Mr. Buchanan observed that, for his own part, he was desirous of furnishing the present Administration with the necessary means to carry on the Government. He had been dragged along from year to year, against his own judgment, to vote for Treasury notes. The necessities of the country had been such as to demand a resort to this species of currency. And yet he would much rather grant a loan at seven per cent. than to be going on thus blindfolded. The people would then know how much they were in debt; and would not be blind to the consequences. But such was his disposition to relieve present wants, that he was ready and willing to grant these five millions of Treasury notes. He believed it was necessary to raise present means by these notes for the relief of the public Treasury under its existing embarrassment; therefore he was willing to go along, as he had always hitherto done, although still against his own conviction. What is the claim made by the Treasury Department? Is it not for means simply to relieve it from its immediate exigencies? Is it not for some more available means than an inoperative loan bill? And is the bill now before the Senate a repeal of the law? He denied that it was. At the extra session Congress authorized a loan of twelve millions. Five and a half millions of that loan had been negotiated, leaving six and a half millions undisposed of. The difficulty with the Government was to negotiate this balance of six and a half millions. One proposition to get over that difficulty, was to extend the term of the loan. Another, to render it more available, by changing the form of it into Treasury notes, payable in one year. Now,

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 150.

if Congress admits of changing five millions of the loan into Treasury notes, will not one million and a half of the original loan be yet available to the Treasury, should any favorable change in the market occur to render it negotiable? The present bill authorizes merely a substitution of Treasury notes for so much of an authorized funded debt. But what does the proposition to strike out the proviso of this bill amount to? Does it not amount to making a new loan of five millions in addition to the funded debt of twelve millions already authorized? And was his side of the chamber to be charged with a factious opposition? [Mr. Clay; "No, not this side of the chamber." Laughter.] Well, were his friends to be charged with factious opposition—were they to be blamed on this or any other side of the chamber, because they express their willingness and readiness to pass a bill, without alteration and without discussion, granting a supply of five millions of dollars as part of the loan of twelve millions, not available in its original shape? When more is wanted, let it be asked for in a separate measure, and at a period of the session which will give time for deliberation and discussion. The question is necessarily one provoking discussion, and consequently delay. Let a more appropriate time be chosen for debating it. Meantime, the necessity for an additional loan may be avoided. Great retrenchments can be made, in conducting the Government according to the promises of economy so lavishly made on the present administration coming into power. For his own part, he was willing, as he said before, to go on as he had hitherto done, though in opposition to his own convictions, and to vote for this issue of Treasury notes, as part of the loan of last session, in a more available form than that loan.

SPEECH, FEBRUARY 2, 1842,

ON THE VETO POWER.[1]

Mr. Buchanan being entitled to the floor, addressed the Senate as follows:

Mr. President: I am now sorry that I ever committed myself to make a speech upon this subject. I assure you that it has become extremely cold; and I think I never shall again

[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 133–141.

pledge myself to address the Senate at the end of a week or ten days, to be occupied in the discussion of an intervening and different question. Cold as the subject had become, it is now still colder, after having waited for an hour to hear a debate on the mere reference of a memorial to the Committee on Commerce. But although the subject may have lost its freshness to my mind, and I may not be able to reply to the Senator from Kentucky [Mr. Clay] with as much effect as if the discussion on the Bankrupt bill had not intervened, yet it has lost none of its intrinsic importance.

Before I commence the discussion, however, let me clearly and distinctly state the question to be decided by the Senate.

Under the Constitution of the United States, as it now exists—

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. *If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law.* But, in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill, shall be entered on the Journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

The same constitutional rule is applicable to "every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary, except on a question of adjournment."

The joint resolution offered by the Senator, proposes to change the existing Constitution, so as to require but a bare majority of all the members belonging to each House to pass any bill into a law, notwithstanding the President's objections.

The question then is, whether the Constitution ought to be so amended as to require but a bare majority of all the members of each House, instead of two-thirds of each House, to overrule the President's veto; and, in my opinion, there never was a more important question presented to the Senate. Is

it wise, or is it republican, to make this fundamental change in our institutions?

The great Whig party of the country have identified themselves, in the most solemn manner, with this proposed amendment. Feeling sensibly, by sad experience, that they had suffered since the late Presidential election, from not having previously presented a clear exposition of their principles "to the public eye," they determined no longer to suffer from this cause. Accordingly, the conscript fathers of the church assembled in convention at the city of Washington, on the 13th September last —at the close of the ever memorable extra session—and adopted an address to the people of the United States. This manifesto contains a distinct avowal of the articles of their creed; and, first and foremost among them all, is a denunciation of the veto power. I shall refer very briefly to this address; although to use the language of my friend, the present Governor of Kentucky, it contains much good reading. So exasperated were the feelings of the party then, and so deeply were they pledged to the abolition of the veto power, that they solemnly and formally read John Tyler out of the Whig church, because he had exercised it against the bills to establish "a fiscal agent" and a "fiscal corporation" of the United States. The form of excommunication bears a resemblance to the Declaration of Independence which severed this country forever from Great Britain. I shall give it in their own emphatic language. They declare that John Tyler—

> By the course he has adopted in respect to the application of the veto power to two successive bank charters, each of which there was just reason to believe would meet his approbation; by the withdrawal of confidence from his real friends in Congress and from the members of his Cabinet; by the bestowal of it upon others notwithstanding their notorious opposition to leading measures of his Administration, has voluntarily separated himself from those by whose exertions and suffrages he was elevated to that office through which he reached his present exalted station, &c. &c.

After a long preamble, they proceed to specify the duties which the Whig party are bound to perform to the country, and at the very head of these duties, the destruction of the veto power contained in the Constitution stands prominently conspicuous. The following is the language which they have employed:

> First. A reduction of the Executive power, by a further limitation of the veto, so as to secure obedience to the public will, *as that shall be expressed*

by the immediate Representatives of the people and the States, with no other control than that which is indispensable to avert hasty or unconstitutional legislation.

Mark me, sir, the object is not to secure obedience to the public will as expressed by the people themselves, the source of all political power; but as expounded by their Senators and Representatives in Congress.

After enumerating other duties, they declare that "to the effectuation of these objects ought the exertions of the Whigs to be hereafter directed." And they make a direct appeal to the people by announcing that "those only should be chosen members of Congress who are willing cordially to co-operate in the accomplishment of them." Twenty thousand copies of this manifesto were ordered to be printed and circulated among the people of the United States.

This appeal to the people, sir, was a vain one. The avowal of their principles destroyed them. The people did not come to the rescue. Never was there a more disastrous defeat than theirs, at the last fall elections, so immediately after their triumphant victory. Thank Heaven! the people have not thus far responded to this appeal, and I trust they may never consent to abolish the veto power. Sir, the Democratic party in regard to this power, in the language of the doughty Barons of England, centuries ago, are not willing that the charter of their liberties shall be changed. We shall hold on to this veto power as one of the most effectual safeguards of the Union, and one of the surest means of carrying into effect the will of the people.

In my humble judgment, the wise statesman ought equally to avoid a foolish veneration for ancient institutions on the one hand, and a restless desire for change on the other. In this respect, the middle is the safer course. Too great a veneration for antiquity would have kept mankind in bondage; and the plea of despots and tyrants, in every age, has been, that the wisdom of past generations has established institutions which the people ought not to touch with a sacrilegious hand. Our ancestors were great innovators; and had they not been so, the darkness and the despotism which existed a thousand years ago would have continued until the present moment. For my own part, I believe that the human race, from generation to generation, has in the main been advancing, and will continue to advance, in wisdom and knowledge; and whenever experience

shall demonstrate that a change, even in the Federal Constitution, will promote the happiness and prosperity of the people, I shall not hesitate to vote in favor of such a change. Still, there are circumstances which surround this instrument with peculiar sanctity. It was framed by as wise men and as pure patriots as the sun of heaven ever shone upon. We have every reason to believe that Providence smiled upon their labors, and predestined them to bless mankind. Immediately after the adoption of the Constitution, order arose out of confusion; and a settled Government, capable of performing all its duties to its constituents with energy and effect, succeeded to the chaos and disorder which had previously existed under the Articles of Confederation. For more than half a century, under this Constitution, we have enjoyed a greater degree of liberty and happiness than has ever fallen to the lot of any other nation on earth. Under such circumstances, the Senator from Kentucky, before he can rightfully demand our votes in favor of a radical change of this Constitution, in one of its fundamental articles, ought to make out a clear case. He ought not only to point out the evils which the country has suffered from the existence of the veto power, but ought to convince us, they have been of such magnitude, that it is not better "to bear the ills we have, than fly to others that we know not of." For my own part, I believe that the veto power is one of the strongest and stateliest columns of that fair temple which our ancestors have dedicated to liberty; and that if you remove it from this time-honored edifice, you will essentially impair its strength and mar its beauty. Indeed there will then be great danger that in time it may tumble into ruins.

Sir, in regard to this veto power, as it at present exists, the convention which framed the Constitution, although much divided on other subjects, were unanimous. It is true that in the earlier stages of their proceedings, it was considerably discussed, and presented in different aspects. Some members were in favor of an absolute veto, and others were opposed to any veto, however qualified; but they at length unanimously adopted the happy mean, and framed the article as it now stands in the Constitution. According to Mr. Madison's report of the debates and proceedings in the convention, we find that on Saturday the 21st July, 1787, "the tenth resolution giving the Executive a qualified veto, requiring two-thirds of each branch of the Legislature to overrule it, was then agreed to *nem. con.*" The

convention continued in session for nearly two months after this decision; but so far as I can discover, no member ever attempted to disturb this unanimous decision.

A principle thus settled ought never to be rashly assailed under the excitement of disappointed feelings occasioned by the veto of two favorite measures at the extra session, on which Senators had fixed their hearts. There ought to have been time for passion to cool and reason to resume her empire. I know very well that the Senator from Kentucky had announced his opposition to the veto power so far back as June, 1840, in his Hanover speech; but that speech may fairly be considered as a declaration of his own individual opinion on this subject. The great Whig party never adopted it as one of the cardinal articles of their faith, until, smarting under disappointment, they saw their two favorite measures of the extra session fall beneath this power. It was then, and not till then, that the resolution, in effect, to abolish it was adopted by them as a party, in their manifesto. The present amendment proposes to carry this resolution into execution.

I should rather rely upon the judgment of the Senator from Kentucky on any other question, than in regard to the veto power. He has suffered so much from its exercise as to render it almost impossible that he can be an impartial judge. History will record the long and memorable struggle between himself and a distinguished ex-President, now in retirement. This was no common party strife. Their mighty war shook the whole Republic to its centre. The one swayed the majority in both Houses of Congress; whilst the other was sustained by a majority of the people. Under the lead of the one, Congress passed bills to establish a Bank of the United States;—to commence a system of internal improvements;—and to distribute the proceeds of the public lands among the several States; whilst the other, strong in his convictions of duty, and strong in his belief that the voice of the sovereign people would condemn these measures of their representatives, vetoed them every one. And what was the result? Without, upon the present occasion, expressing an opinion on any one of these questions, was it not rendered manifest that the President elected by the mass of the people, and directly responsible to them for his conduct, understood their will and their wishes better than the majority in the Senate and House of Representatives? No wonder then that the Senator from Kentucky should detest the

veto power. It ought never to be torn from its foundations in the Constitution by the rash hands of a political party, impelled to the deed under the influence of defeated hopes and disappointed ambition.

I trust now that I shall be able to prove that the Senator from Kentucky has entirely mistaken the character of the veto power; that in its origin and nature it is peculiarly democratic; that in the qualified form in which it exists in our Constitution, it is but a mere appeal by the President of the people's choice from the decision of Congress to the people themselves; and that whilst the exercise of this power has done much good, it never has been, and never can be, dangerous to the rights and liberties of the people.

This is not "an arbitrary and monarchical power;" it is not "a monarchical prerogative," as it has been designated by the Senator. If it were, I should go with him, heart and hand, for its abolition. What is a monarchical prerogative? It is a power vested in an Emperor or King, neither elected by, nor responsible to, the people, to maintain and preserve the privileges of his throne. The veto power in the hands of such a sovereign has never been exerted, and will never be exerted, except to arrest the progress of popular liberty, or what he may term popular encroachment. It is the character of the public agent on whom this power is conferred, and not the nature of the power itself, which stamps it either as democratic or arbitrary. In its origin, we all know that it was purely democratic. It owes its existence to a revolt of the people of Rome against the tyrannical decrees of the Senate. They retired from the city to the Sacred Mount, and demanded the rights of freemen. They thus extorted from the aristocratic Senate a decree authorizing them annually to elect tribunes of the people. On these tribunes was conferred the power of annulling any decree of the Senate, by simply pronouncing the word *"veto."* This very power was the only one by means of which the Democracy of Rome exercised any control over the Government of the Republic. It was their only safeguard against the oppression and encroachments of the aristocracy. It is true that it did not enable the people, through their tribunes, to originate laws; but it saved them from all laws of the Senate which encroached on their rights and liberties.

Now, sir, let me ask the Senator from Kentucky, was this an arbitrary and monarchical power? No, sir; it was strictly

democratic. And why? Because it was exercised by tribunes elected by the people, and responsible annually to the people; and I shall now attempt to prove that the veto power, under our Constitution, is of a similar character.

Who is the President of the United States, by whom this power is to be exercised? He is a citizen, elected by his fellow citizens to the highest official trust in the country, and directly responsible to them for the manner in which he shall discharge his duties. From the manner in which he is elected, he more nearly represents a majority of the whole people of the United States than any other branch of the Government. Sir, one-fourth of the people may elect a decided majority of the Senate. Under the Constitution, we are the representatives of sovereign States, and little Delaware has an equal voice in this body with the Empire State. How is it in regard to the House of Representatives? Without a resort to the gerrymandering process which of late years has become so common, it may often happen, from the arrangement of the Congressional districts, that a minority of the people of a State will elect a majority of representatives to Congress. Not so in regard to the President of the United States. From necessity, he must be elected by the mass of the people in the several States. He is the creature of the people—the mere breath of their nostrils—and on him, as the tribune of the people, have they conferred the veto power.

Is there any serious danger that such a magistrate will ever abuse this power? What earthly inducement can he have to pursue such a course? In the first place, during his first term, he will necessarily feel anxious to obtain the stamp of public approbation on his conduct, by a re-election. For this reason, if no other existed, he will not array himself, by the exercise of the veto power, against a majority in both Houses of Congress, unless in extreme cases, where, from strong convictions of public duty, he may be willing to draw down upon himself their hostile influence.

In the second place, the Constitution leaves him in a state of dependence on Congress. Without their support, no measure recommended by him can become a law, and no system of policy which he may have devised can be carried into execution. Deprived of their aid, he can do nothing. Upon their cordial co-operation the success and glory of his administration must, in a great degree, depend. Is it, then, at all probable that he would

make war upon Congress, by refusing to sanction any one of their favorite measures, unless he felt deeply conscious that he was acting in obedience to the will of the people, and could appeal to them for support? Nothing short of such a conviction, unless it be to preserve his oath inviolate to support the Constitution, will ever induce him to exercise a power always odious in the eyes of the majority in Congress, against which it is exerted.

But there is still another powerful influence which will prevent his abuse of the veto power. The man who has been elevated by his fellow-citizens to the highest office of trust and dignity which a great nation can bestow, must necessarily feel a strong desire to have his name recorded in untarnished characters on the page of his country's history, and to live after death in the hearts of his countrymen. This consideration would forbid the abuse of the veto power. What is posthumous fame in almost every instance? Is it not the voice of posterity re-echoing the opinion of the present generation? And what body on the earth can give so powerful an impulse to public opinion, at least in this country, as the Congress of the United States? Under all these circumstances, we must admit that the opinion expressed by the Federalist is sound, and that "it is evident that there would be greater danger of his not using his power when necessary, than of his using it too often or too much." Such must also have been Mr. Jefferson's opinion. When consulted by General Washington in April, 1792, as to the propriety of vetoing "the act for an apportionment of Representatives among the several States, according to the first enumeration," what was his first reason in favor of the exercise of this power upon that occasion? "Viewing the bill," says he, "either as a violation of the Constitution, or as giving an inconvenient exposition to its words, is it a case wherein the President ought to interpose his negative?" "I think it is." *"The non user of his negative power begins already to excite a belief that no President will ever venture to use it; and consequently, has begotten a desire to raise up barriers in the State Legislatures against Congress throwing off the control of the Constitution."* I shall not read the other reasons he has assigned, none of them being necessary for my present purpose. Perilous, indeed, I repeat, is the exercise of the veto power, and "no President will ever venture to use it," unless from the strongest sense of duty, and the strongest conviction that it will receive the public approbation.

But, after all, what is the nature of this qualified veto under the Constitution? It is, in fact, but an appeal taken by the President from the decision of Congress, in a particular case, to the tribunal of the sovereign people of the several States, who are equally the masters of both. If they decide against the President, their decision must finally prevail, by the admission of the Senator himself. The same President must either carry it into execution himself, or the next President whom they elect will do so. The veto never can do more than postpone legislative action on the measure of which it is the subject, until the will of the people can be fairly expressed. This suspension of action, if the people should not sustain the President, will not generally continue longer than two years, and it cannot continue longer than four. If the people, at the next elections, should return a majority to Congress hostile to the veto, and the same measure should be passed a second time, he must indeed be a bold man, and intent upon his own destruction, who would, a second time, arrest it by his veto. After the popular voice has determined the question, the President would always submit, unless, by so doing, he clearly believed he would involve himself in the guilt of perjury, by violating his oath to support the Constitution. At the end of four years, however, in any and every event, the popular will must and would be obeyed by the election of another President.

Sir, the Senator from Kentucky, in one of those beautiful passages which always abound in his speeches, has drawn a glowing picture of the isolated condition of kings, whose ears the voice of public opinion is never permitted to reach; and he has compared their condition in this particular, with that of the President of the United States. Here too, he said, the Chief Magistrate occupied an isolated station, where the voice of his country and the cries of its distress could not reach his ear. But is there any justice in this comparison? Such a picture may be true to the life when drawn for an European monarch; but it has no application whatever to a President of the United States. He, sir, is no more than the first citizen of this free Republic. No form is required in approaching his person, which can prevent the humblest of his fellow-citizens from communicating with him. In approaching him, a freeman of this land is not compelled to decorate himself in fantastic robes, or adopt any particular form of dress, such as the court etiquette of Europe requires. The President intermingles freely with his fellow-citizens, and hears the opinions of all. The public press attacks him—political parties, in and out

of Congress, assail him, and the thunders of the Senator's own denunciatory eloquence are reverberated from the Capitol, and reach the White House before its incumbent can lay his head upon his pillow. His every act is subjected to the severest scrutiny, and he reads in the newspapers of the day the decrees of public opinion. Indeed it is the privilege of every body to assail him. To contend that such a Chief Magistrate is isolated from the people, is to base an argument upon mere fancy, and not upon facts. No, sir; the President of the United States is more directly before the people, and more immediately responsible to the people, than any other department of our Government: and woe be to that President who shall ever affect to withdraw from the public eye, and seclude himself in the recesses of the Executive mansion!

The Senator has said, and with truth, that no veto of the President has ever been overruled, since the origin of the Government. Not one. Although he introduced this fact for another purpose than that which now induces me to advert to it, yet it is not the less true on that account. Is not this the strongest possible argument to prove that there never yet has been a veto in violation of the public will?

[Here Mr. Clay observed that there had been repeated instances of majorities in Congress deciding against vetoes.]

Mr. Buchanan resumed. I am now speaking of majorities, not of Congress, but of the people. I shall speak of majorities in Congress presently.

Why, sir, has no veto been ever overruled? Simply because the President has never exercised, and never will exercise this perilous power on any important occasion, unless firmly convinced that he is right, and that he will be sustained by the people. Standing alone, with the whole responsibility of his high official duties pressing upon him, he will never brave the enormous power and influence of Congress, unless he feels a moral certainty that the people will come to the rescue. When he ventures to differ from Congress, and appeal to the people, the chances are all against him. The members of the Senate and the House are numerous, and are scattered over the whole country, whilst the President is but an individual confined to the city of Washington. Their personal influence with their constituents is, and must be, great. In such a struggle, he must mainly rely upon the palpable justice of his cause. Under these circumstances, does it not speak volumes in favor of the discretion with which the veto power has

been exercised, that it has never once been overruled, in a single instance, since the origin of the Government, either by a majority of the people in the several States, or by the constitutional majority in Congress?

It is truly astonishing how rarely this power has ever been exercised. During the period of more than half a century which has elapsed since the meeting of the first Congress under the Constitution, about six thousand legislative acts have been passed. How many of these, sir, do you suppose have been disapproved by the President? Twenty, sir; twenty is the whole number. I speak from a list now in my hand prepared by one of the clerks of the Senate. And this number embraces not merely those bills which have been actually vetoed; but all such as were retained by him under the Constitution, in consequence of having been presented at so late a period of the session that he could not prepare his objections previous to the adjournment. Twenty is the sum total of all!

Let us analyze these vetoes, (for I shall call them all by that name,) for a few moments. Of the twenty, eight were on bills of small comparative importance, and excited no public attention. Congress at once yielded to the President's objections, and in one remarkable instance, a veto of General Jackson was laid upon the table on the motion of the Senator from Kentucky himself. No attempt was even made to pass the bill in opposition to this veto, and no one Senator contested its propriety. Eleven of the twelve remaining vetoes upon this list relate to only three subjects. These are, a Bank of the United States; internal improvements in different forms; and the distribution of the proceeds of the public lands among the several States. There have been four vetoes of a Bank of the United States; one by Mr. Madison, one by General Jackson, and two by Mr. Tyler. There have been six vetoes on internal improvements, in different forms; one by Mr. Madison, one by Mr. Monroe, and four by General Jackson. And General Jackson vetoed the bill to distribute the proceeds of the sales of the public lands among the several States. These make the eleven.

The remaining veto was by General Washington; and it is remarkable that it should be the most questionable exercise of this power which has ever occurred. I refer to his second and last veto, on the first of March, 1797, and but three days before he retired from office, on the "Act to alter and amend an act, entitled an act to ascertain and fix the military establishment of

the United States." In this instance, there was a majority of nearly two-thirds in the House of Representatives, where it originated, in favor of passing the act, notwithstanding the objections of the Father of his Country. The vote was fifty-five in the affirmative to thirty-six in the negative. This act provided for the reduction of the military establishment of the country; and the day will probably never again arrive when any President will venture to veto an act reducing the standing army of the United States.

Then in the range of time since the year 1789, there have been but twenty vetoes; and eleven of these related to only three subjects which have radically divided the two great political parties of the country. With the exception of twenty, all the acts which have ever passed Congress have been allowed to take their course without any Executive interference.

That this power has never been abused, is as clear as the light of the sun. I ask Senators, and I appeal to you, sir, whether the American people have not sanctioned every one of the vetoes on the three great subjects to which I have referred. Yes, sir, every one, not excepting those on the Fiscal Bank and Fiscal Corporation—the leading measures of the extra session. Notwithstanding the solemn denunciation against the President, made by the Whig party, and their appeal to the people, there has been no election held since that session in which the people have not declared, in a voice of thunder, their approbation of the two vetoes of President Tyler. I shall not, upon the present occasion, discuss the question whether all or any of these vetoes were right or wrong. I merely state the incontrovertible fact that they have all been approved by the American people.

The character of the bills vetoed shows conclusively the striking contrast between the veto power when entrusted to an elective and responsible Chief Magistrate, and when conferred upon a European sovereign as a royal prerogative. All the vetoes which an American President has imposed on any important act of Congress, except the one by General Washington, to which I have alluded, have been so many instances of self-denial. These acts have all been returned, accompanied by messages remonstrating against the extension of Executive power, which they proposed to grant. Exerting the influence which these acts proposed to confer upon him, the President might, indeed, have made long strides towards the attainment of monarchical power. Had a National Bank been established under his control, uniting

the moneyed with the political power of the country;—had a splendid system of internal improvements been adopted and placed under his direction, presenting prospects of pecuniary advantage to almost every individual throughout the land; and in addition to all this, had the States become pensioners on the bounty of the Federal Government for the amount of the proceeds of the sales of the public lands, we might soon have witnessed a powerful consolidated Government, with a chief at its head far different from the plain and unpretending President recognised by the Constitution. The General Government might then have become every thing, whilst the State Governments would have sunk to nothing. Thanks to the vetoes of our Presidents, and not to Congress, that most of these evils have been averted. Had these acts been all approved by the President, it is my firm conviction that the Senator himself would as deeply have deplored the consequences as any other true patriot, and that he would forever have regretted his own agency in substantially changing the form of our Government. Had these bills become laws, the Executive power would then have strode over all the other powers of the Constitution; and then, indeed, the Senator might have justly compared the President of the United States with the monarchs of Europe. Our Presidents have had the self-denying firmness to render all these attempts abortive to bestow on themselves extraordinary powers, and have been content to confine themselves to those powers conferred on them by the Constitution. They have protected the rights of the States and of the people from the unconstitutional means of influence which Congress had placed within their grasp. Such have been the consequences of the veto power in the hands of our elective chief magistrate.

For what purposes has this power been exerted by European monarchs with whom our President has been compared? When exercised at all, it has always been for the purpose of maintaining the royal prerogative and arresting the march of popular liberty. There have been but two instances of its exercise in England since the Revolution of 1688. The first was in 1692, by William the Third, the rival of Louis the Fourteenth, and beyond question the ablest man who has sat upon the throne of Great Britain for the last century and a half. He had the hardihood to veto the Earl of Shrewsbury's bill, which had passed both Houses, limiting the duration of Parliaments to three, instead of seven years, and requiring annual sessions to be held. He dreaded the influ-

ence which members of the House of Commons, responsible to their constituents at the end of each period of three years, might exert against his royal power and prerogatives; and, therefore, held on by means of the veto to septennial Parliaments. And what did George the Third do? In 1806, he vetoed the Catholic Emancipation bill, and thus continued to hold in political bondage millions of his fellow men, because they insisted upon worshipping their God according to the dictates of their own conscience.

[Here Mr. Clay observed that this was a mistake, and expressed his belief that upon the occasion alluded to, the matter had gone no further than the resignation of the Grenville administration.]

Mr. Buchanan. I shall then read my authority. It is to be found in "Random Recollections of the House of Lords, by Mr. Grant," page 25. The author says:

> But if the King refuse his signature to it [a bill] *as George the Third did in the case of the Catholic Emancipation bill of* 1806, it necessarily falls to the ground. The way in which the King intimates his determination not to give his assent to the measure, is not by a positive refusal in so many words; he simply observes, in answer to the application made to him for that purpose, "Le Roi s'avisera," namely, "The King will consider of it," which is understood to be a final determination not to sanction the measure.

But, sir, be this author correct or incorrect, as to the existence of a veto in 1806, it is a matter of trifling importance in the present argument.[1] I admit that the exercise of the veto power has fallen into disuse in England since the revolution. And what are the reasons? First, because its exercise by a hereditary sovereign to preserve unimpaired the prerogatives of the crown against the voice of the people, is always an odious exertion of the royal prerogative. It is far different from its exercise by an elective magistrate, acting in the character of a tribune of the people, to preserve their rights and liberties unimpaired. And

[1] Mr. Buchanan cannot discover, after careful examination, that any Catholic Emancipation Bill was vetoed by George the Third in 1806, according to the statement of Mr. Grant. That gentleman, most probably, intended to refer to the bill for this purpose which was introduced by the Grenville ministry, in March, 1807, under the impression that they had obtained for it the approbation of his Majesty. Upon its second reading, notice was given of his displeasure. The ministry then agreed to drop the bill altogether; but, notwithstanding this concession, they were changed, because they would not give a written pledge to the king, that they should propose no farther concessions to the Catholics thereafter. This was an exertion of the royal prerogative beyond the veto power.

secondly, because this veto power is no longer necessary to secure the prerogatives of the crown against the assaults of popular liberty.

Two centuries ago, the people of England asserted their rights by the sword against their sovereign. They dethroned and beheaded him. Since that time, the Kings of England have changed their course. They have discovered from experience that it was much easier to govern Parliament by means of the patronage and money at the command of the crown, than openly to resist it by the veto power. This system has succeeded admirably. Influence has taken the place of prerogative; and since the days of Walpole, when the votes of members were purchased almost without disguise, corruption has nearly destroyed the independent action of Parliament. It has now descended into the ranks of the people and threatens destruction to the institutions of that country. In the recent contest for power between the Whigs and the Tories, the bargain and sale of the votes of the electors was open and notorious. The bribery and corruption of both parties sought no disguise. In many places the price of a vote was fixed, like any other commodity in the market. These things have been proclaimed without contradiction on the floor of Parliament. The Tories had the most money to expend; and the cause of dear bread, with a starving population, prevailed over the modification or repeal of the corn laws. In a country so venal, it is easy for the crown, by a politic distribution of its honors, offices, and emoluments, and if these should all fail, by a direct application of money, to preserve its prerogatives without the use of the veto power.

Besides, the principal ministers of the crown are always members of the House of Lords or the House of Commons. It is they who originate the important laws; and they, and they alone, are responsible, because it is a maxim of the British Government, that the King can do no wrong. If they cannot maintain a majority in Parliament by the use of the patronage and influence of the crown, they must yield their places to their successful rivals; and the King, without the least hesitation, will receive as his confidential advisers to-morrow, the very men whose principles he had condemned but yesterday. Such is a King of England. He can do no wrong.

On one memorable occasion, when the ministers of the crown themselves—I refer to the coalition administration of Mr. Fox and Lord North—had passed their East India Bill

through the House of Commons, it was defeated in the House of Lords by the direct personal influence of the sovereign. George the Third, it is known, would have vetoed that bill, had it passed the House of Lords; and well he might. It was an attempt by his own ministers to obtain possession of the wealth and the power of India, and to use them for the purpose of controlling both the sovereign and the people of England. This was not the common case of a mere struggle between opposite parties as to which should administer the Government, about which the sovereign of England might be perfectly indifferent; but it was an attempt to deprive the crown of its power and prerogatives.

Under such circumstances, can the Senator seriously contend that, because the veto power has been disused by the kings of England, therefore, it ought to be taken from the President of the United States? The King is a hereditary sovereign—the President an elective magistrate. The King is not responsible to the people for the administration of the Executive Government—the President is alone responsible. The King could feel no interest in using the veto power, except to maintain the prerogatives of the crown; and it has been shown to be wholly unnecessary for this purpose; whilst the President has never exerted it on any important occasion, but in obedience to the public will, and then only for the purpose of preventing encroachments by Congress on the Constitution of the country, on the rights of the States, and on the liberties of the people.

The Senator is mistaken in supposing that the veto power has never been exercised in France. It is true, I believe, that it has never been exerted by the Government of Louis Philippe; but his Government is as yet nothing but a mere experiment. It has now existed less than twelve years, and during this short period there have been nineteen different cabinets. I saw a list of them a few days ago, in one of the public journals. To cite the example of such a Government as authority here, is to prove that a Senator is hard run for arguments. The unfortunate Louis the Sixteenth used the suspensive veto power conferred upon him by the first French Constitution, upon more than one occasion; but he used it not to enforce the will of the people as our Presidents have done, but against public opinion, which was at that time omnipotent in France. These vetoes proved but a feeble barrier against the tremendous torrent of the Revolution, which was at that time overwhelming all the corrupt and tyrannical institutions of the ancient monarchy.

The Senator has referred to the Declaration of Independence, to show that the exercise of this veto power by the King on the acts of the colonial Legislatures was one of the causes of the Revolution. In that instrument he is charged with having "refused his assent to laws the most wholesome and necessary for the public good." In those days a douceur was presented, in Pennsylvania, to the Proprietary Governor, with every act of Assembly in which the people felt a deep interest. I state this fact on the authority of Dr. Franklin. After the act was approved by the Governor, it had then to be sent three thousand miles across the Atlantic for the approbation of a hereditary sovereign, in no manner responsible to the people of this country. It would have been strange, indeed, had not this power been abused under such circumstances. This was like the veto of Augustus after he had usurped the liberties of the Roman people, and made himself sole tribune—not like that of the tribunes annually elected by the Roman people. This was not the veto of James Madison, Andrew Jackson, or John Tyler—not the veto of a freeman, responsible to his fellow-freemen for the faithful and honest exercise of his important trust. This power is either democratic or arbitrary, as the authority exercising it may be dependent on the people or independent of them.

But, sir, this veto power, which I humbly apprehend to be useful in every State Government, becomes absolutely necessary under the peculiar and complex form of the Federal Government. To this point I desire especially to direct the attention of the Senate. The Federal Constitution was a work of mutual compromise and concession; and the States which became parties to it must take the evil with the good. A majority of the people within each of the several States have the inherent right to change, modify, and amend their Constitution at pleasure. Not so with respect to the Federal Constitution. In regard to it, a majority of the people of the United States can exercise no such power. And why? Simply because they have solemnly surrendered it, in consideration of obtaining by this surrender all the blessings and benefits of our glorious Union. It requires two-thirds of the representatives of the States in the Senate, and two-thirds of the Representatives of the people in the House, even to propose an amendment to the Constitution; and this must be ratified by three-fourths of the States before it can take effect. Even if twenty-five of the twenty-six States of which the Union is composed should determine to deprive "little Delaware" of

her equal representation in the Senate, she could defy them all, whilst this Constitution shall endure. It declares that "no State, without its consent, shall be deprived of its equal suffrage in the Senate."

As the Constitution could not have been adopted except by a majority of the people in every State of the Union, the members of the convention believed that it would be reasonable and just to require that three-fourths of the States should concur in changing that which *all* had adopted, and to which *all* had become parties. To give it a binding force upon the conscience of every public functionary, each Senator and Representative, whether in Congress or the several State Legislatures, and every executive and judicial officer, whether State or Federal, is bound solemnly to swear or affirm that he will support the Constitution.

Now, sir, it has been said, and said truly by the Senator, that the will of the majority ought to prevail. This is an axiom in the science of liberty which nobody will at the present day dispute. Under the Federal Constitution, this will must be declared in the manner which it has prescribed; and sooner or later, the majority must and will be obeyed in the enactment of laws. But what is this majority to which we are all bound to yield? Is it the majority of Senators and Representatives in Congress, or a majority of the people themselves? The fallacy of the Senator's argument, from beginning to end, consists in the assumption that Congress, in every situation and under every circumstance, truly represent the deliberate will of the people. The framers of the Constitution believed it might be otherwise; and therefore they imposed the restriction of the qualified veto of the President upon the legislative action of Congress.

What is the most glorious and useful invention of modern times in the science of free Government? Undoubtedly, written Constitutions. For want of these, the ancient Republics were scenes of turbulence, violence, and disorder, and ended in self-destruction. And what are all our constitutions but restraints imposed, not by arbitrary authority, but by the people upon themselves and their own Representatives? Such throughout is the character of the Federal Constitution. And it is this Constitution, thus restricted, which has so long secured our liberty and prosperity, and has endeared itself to the heart of every good citizen.

This system of self-imposed restraints is a necessary element of our social condition. Every wise and virtuous man adopts

resolutions by which he regulates his conduct, for the purpose of counteracting the evil propensities of his nature, and preventing him from yielding under the impulses of sudden and strong temptation. Is such a man the less free—the less independent, because he chooses to submit to these self-imposed restraints? In like manner, is the majority of the people less free and less independent, because it has chosen to impose constitutional restrictions upon itself and its Representatives? Is this any abridgment of popular liberty? The true philosophy of Republican Government, as the history of the world has demonstrated, consists in the establishment of such counteracting powers,—powers always created by the people themselves,—as shall render it morally certain that no law can be passed by their servants which shall not be in accordance with their will, and calculated to promote their good.

It is for this reason that a Senate has been established in every State of the Union to control the House of Representatives; and I presume there is now scarcely an individual in the country who is not convinced of its necessity. Fifty years ago, opinions were much divided upon this subject, and nothing but experience has settled the question. In France, the National Assembly, although they retained the King, rejected a Senate as aristocratic, and our own Franklin was opposed to it. He thought that the popular branch was alone necessary to reflect the will of the people, and that a Senate would be but a mere incumbrance. His influence prevailed in the Convention which framed the first Constitution for Pennsylvania, and we had no Senate. The Doctor's argument against it was contained in one of his homely but striking illustrations. Why, said he, will you place a horse in front of a cart to draw it forward, and another behind to pull it back? Experience, which is the wisest teacher, has demonstrated the fallacy of this and all other similar arguments, and public opinion is now unanimous on the subject. Where is the man who does not now feel that the control of a Senate is necessary to restrain and modify the action of the popular branch?

And how is our own Senate composed? One-fourth of the people of this Union, through the agency of the State Legislatures, can send a majority into this chamber. A bill may pass the House of Representatives by a unanimous vote, and yet be defeated here by a majority of Senators representing but one-fourth of the people of the United States. Why does not the

Senator from Kentucky propose to abolish the Senate? His argument would be much stronger against its existence than against that of the veto power in the hands of a Chief Magistrate, who, in this particular, is the true representative of the majority of the whole people.

All the beauty and harmony and order of the universe arise from counteracting influences. When its great Author, in the beginning, gave the planets their projectile impulse, they would have rushed in a straight line through the realms of boundless space, had he not restrained them within their prescribed orbits by the counteracting influence of gravitation. All the valuable inventions in mechanics consist in blending simple powers together so as to restrain and regulate the action of each other. Restraint —restraint—not that imposed by arbitrary and irresponsible power, but by the people themselves, in their own written constitutions, is the great law which has rendered Democratic Representative Government so successful in these latter times. The best security which the people can have against abuses of trust by their public servants, is to ordain that it shall be the duty of one class of them to watch and restrain another. Sir, this Federal Government, in its legislative attributes, is nothing but a system of restraints from beginning to end. In order to enact any bill into a law, it must be passed by the representatives of the people in the House, and also by the representatives of the sovereign States in the Senate, where, as I have observed before, it may be defeated by Senators from States containing but one-fourth of the population of the country. After it has undergone these two ordeals, it must yet be subjected to that of the Executive, as the tribune of the whole people, for his approbation. If he should exercise his veto power, it cannot become a law unless it be passed by a majority of two-thirds of both Houses. These are the mutual restraints which the people have imposed on their public servants, to preserve their own rights and those of the States from rash, hasty, and impolitic legislation. No treaty with a foreign power can be binding upon the people of this country unless it shall receive the assent of the President and two-thirds of the Senate; and this is the restraint which the people have imposed on the treaty-making power.

All these restraints are peculiarly necessary to protect the rights and preserve the harmony of the different States which compose our Union. It now consists of twenty-six distinct and independent States, and this number may yet be considerably

increased. These States differ essentially from each other in their domestic institutions, in the character of their population, and even, to some extent, in their language. They embrace every variety of soil, climate, and productions. In an enlarged view, I believe their interests to be all identical; although, to the eye of local and sectional prejudice, they always appear to be conflicting. In such a condition, mutual jealousies must arise, which can only be repressed by that mutual forbearance which pervades the Constitution. To legislate wisely for such a people is a task of extreme delicacy, and requires much self-restraining prudence and caution. In this point of view, I firmly believe that the veto power is one of the best safeguards of the Union. By this power, the majority of the people in every State have decreed that the existing laws shall remain unchanged, unless not only a majority in each House of Congress, but the President also, shall sanction the change. By these wise and wholesome restrictions, they have secured themselves, so far as human prudence can, against hasty, oppressive, and dangerous legislation.

The rights of the weaker portions of the Union will find one of their greatest securities in the veto power. It would be easy to imagine interests of the deepest importance to particular sections which might be seriously endangered by its destruction. For example, not more than one-third of the States have any direct interest in the coasting trade. This trade is now secured to American vessels, not merely by a protective duty, but by an absolute prohibition of all foreign competition. Suppose the advocates of free trade run mad should excite the jealousy of the Senators and Representatives from the other two-thirds of the States, against this comparatively local interest, and convince them that this trade ought to be thrown open to foreign navigation. By such a competition, they might contend that the price of freight would be reduced, and that the producers of cotton, wheat, and other articles, ought not to be taxed in order to sustain such a monopoly in favor of our own ship building and navigating interest. Should Congress, influenced by these or any other considerations, ever pass an act to open this trade to the competition of foreigners, there is no man fit to fill the Executive chair who would not place his veto upon it, and thus refer the subject to the sober determination of the American people. To deprive the navigating States of this privilege, would be to aim a deadly blow at the very existence of the Union.

Let me suppose another case of a much more dangerous

character. In the Southern States, which compose the weaker portion of the Union, a species of property exists which is now attracting the attention of the whole civilized world. These States never would have become parties to the Union, had not their rights in this property been secured by the Federal Constitution. Foreign and domestic fanatics—some from the belief that they are doing God's service, and others from a desire to divide and destroy this glorious Republic—have conspired to emancipate the Southern slaves. On this question, the people of the South, beyond the limits of their own States, stand alone and unsupported by any power on earth, except that of the Northern Democracy. These fanatical philanthropists are now conducting a crusade over the whole world, and are endeavoring to concentrate the public opinion of all mankind against this right of property. Suppose they should ever influence a majority in both Houses of Congress to pass a law, not to abolish this property—for that would be too palpable a violation of the Constitution—but to render it of no value, under the letter, but against the spirit of some one of the powers granted: will any lover of his country say that the President ought not to possess the power of arresting such an act by his veto, until the solemn decision of the people should be known on this question, involving the life or death of the Union? We, sir, of the non-slaveholding States, entered the Union upon the express condition that this property should be protected. Whatever may be our own private opinions in regard to slavery in the abstract, ought we to hazard all the blessings of our free institutions—our Union and our strength—in such a crusade against our brethren of the South? Ought we to jeopard every political right we hold dear for the sake of enabling these fanatics to invade Southern rights, and render that fair portion of our common inheritance a scene of servile war, rapine and murder? Shall we apply the torch to the magnificent temple of human liberty which our forefathers reared at the price of their blood and treasure, and permit all we hold dear to perish in the conflagration? I trust not.

It is possible that at some future day the majority in Congress may attempt, by indirect means, to emancipate the slaves of the South. There is no knowing through what channel the ever active spirit of fanaticism may seek to accomplish its object. The attempt may be made through the taxing power, or some other express power granted by the Constitution. God only knows how it may be made. It is hard to say what means fanati-

cism may not adopt to accomplish its purpose. Do we feel so secure, in this hour of peril from abroad and peril at home, as to be willing to prostrate any of the barriers which the Constitution has reared against hasty and dangerous legislation? No, sir, never was the value of the veto power more manifest than at the present moment. For the weaker portion of the Union, whose constitutional rights are now assailed with such violence, to think of abandoning this safeguard, would be almost suicidal. It is my solemn conviction, that there never was a wiser or more beautiful adaptation of theory to practice in any Government than that which requires a majority of two-thirds in both Houses of Congress to pass an act returned by the President with his objections, under all the high responsibilities which he owes to his country.

Sir, ours is a glorious Constitution. Let us venerate it—let us stand by it as the work of great and good men, unsurpassed in the history of any age or nation. Let us not assail it rashly with our invading hands, but honor it as the fountain of our prosperity and power. Let us protect it as the only system of Government which could have rendered us what we are in half a century, and enabled us to take the front rank among the nations of the earth. In my opinion, it is the only form of Government which can preserve the blessings of liberty and prosperity to the people, and at the same time secure the rights and sovereignty of the States. Sir, the great mass of the people are unwilling that it shall be changed. Although the Senator from Kentucky, to whom I cannot and do not attribute any but patriotic motives, has brought himself to believe that a change is necessary, especially in the veto power, I must differ from him entirely, convinced that his opinions on this subject are based upon fallacious theories of the nature of our institutions. This view of his opinions is strengthened by his declarations the other day as to the illimitable rights of the majority in Congress. On that point he differs essentially from the framers of the Constitution. They believed that the people of the different States had rights which might be violated by such a majority; and the veto power was one of the modes which they devised for preventing these rights from being invaded.

The Senator, in support of his objections to the veto power, has used what he denominates a numerical argument, and asks, can it be supposed that any President will possess more wisdom than nine Senators and forty Representatives? (This is the

number more than a bare majority of each body which would at present be required to pass a bill by a majority of two-thirds.) To this question, my answer is, no, it is not to be so supposed at all. All that we have to suppose is, what our ancestors, in their acknowledged wisdom, did suppose; that Senators and Representatives are but mortal men, endowed with mortal passions and subject to mortal infirmities; that they are susceptible of selfish and unwise impulses, and that they do not always, and under all circumstances, truly reflect the will of their constituents. These founders of our Government, therefore, supposed the possibility that Congress might pass an act through the influence of unwise or improper motives; and that the best mode of saving the country from the evil effects of such legislation was to place a qualified veto in the hands of the people's own representative, the President of the United States, by means of which, unless two-thirds of each House of Congress should repass the bill, the question must be brought directly before the people themselves. These wise men had made the President so dependent on Congress that they knew he would never abuse this power, nor exert it unless from the highest and most solemn convictions of duty; and experience has established their wisdom and foresight.

As to the Senator's numerical argument, I might as well ask him, is it to be supposed that we are so superior in wisdom to the members of the House that the vote of one Senator ought to annul the votes of thirty-two Representatives? And yet the bill to repeal the Bankrupt law has just been defeated in this body by a majority of one, although it had passed the House by a majority of thirty-two. The Senator's numerical argument, if it be good for any thing at all, would be good for the abolition of the Senate as well as of the veto; and would lead at once to the investment of all the powers of legislation in the popular branch alone. But experience has long exploded this theory throughout the world. The framers of the Constitution, in consummate wisdom, thought proper to impose checks, and balances, and restrictions on their Governmental agents; and woe betide us, if the day should ever arrive when they shall be removed.

But I must admit that another of the Senator's arguments is perhaps not quite so easily refuted, though, I think, it is not very difficult to demonstrate its fallacy. It is undoubtedly his strongest position. He says that the tendency of the veto power is to draw after it all the powers of legislation; and that Congress, in passing laws, will be compelled to consult, not the good of the

country alone, but to ascertain, in the first instance, what the President will approve, and then regulate their conduct according to his predetermined will.

This argument presupposes the existence of two facts, which must be established before it can have the least force. First, that the President would depart from his proper sphere, and attempt to influence the initiatory legislation of Congress; and, second, that Congress would be so subservient as to originate and pass laws, not according to the dictates of their own judgment, but in obedience to his expressed wishes. Now, sir, does not the Senator perceive that his argument proves too much? Would not the President have precisely the same influence over Congress, so far as his patronage extends, as if the veto had never existed at all? He would then resemble the King of England, whose veto power has been almost abandoned for the last hundred and fifty years. If the President's power and patronage were coextensive with that of the King, he could exercise an influence over Congress similar to that which is now exerted over the British Parliament, and might control legislation in the same manner.

Thus, sir, you perceive that to deprive the President of the veto power, would afford no remedy against Executive influence in Congress, if the President were disposed to exert it. Nay, more—it would encourage him to interfere secretly with our legislative functions, because, deprived of the veto power, his only resource would be to intrigue with members of Congress for the purpose of preventing the passage of measures which he might disapprove. At present this power enables him to act openly and boldly, and to state his reasons to the country for refusing his assent to any act passed by Congress.

Again: does not the Senator perceive that this argument is a direct attack upon the character of Congress? Does he not feel that the whole weight of his argument in favor of abolishing the veto power, rests upon the wisdom, integrity, and independence of that body? And yet we are told that in order to prevent the application of the veto, we shall become so subservient to the Executive, that in the passage of laws we will consult his wishes rather than our own independent judgment. The venality and baseness of Congress are the only foundations on which such an argument can rest; and yet it is the presumption of their integrity and wisdom on which the Senator relies for the purpose of proving that the veto power is wholly unnecessary, and ought to be abolished.

In regard to this thing of Executive influence over Congress, I have a few words to say. Sir, I have been an attentive observer of Congressional proceedings for the last twenty years, and have watched its operations with an observing eye. I shall not pretend to say that it does not exist to some extent; but its power has been greatly overrated. It can never become dangerous to liberty, unless the patronage of the Government should be enormously increased by the passage of such unconstitutional and encroaching laws as have hitherto fallen under the blow of the veto power.

The Executive, indeed, will always have personal friends, as well as ardent political supporters of his administration in Congress, who will strongly incline to view his measures with a favorable eye. He will, also, have, both in and out of Congress, expectants who look to him for a share of the patronage at his disposal. But, after all, to what does this amount?

Whilst the canvass is proceeding previous to his election, the expectations of candidates for office will array around him a host of ardent and active friends. But what is his condition after the election has passed, and the patronage has been distributed? Let me appeal to the scene which we all witnessed in this city, at and after the inauguration of the late lamented President. It is almost impossible that one office seeker in fifty could have been gratified. What is the natural and necessary result of such numerous disappointments? It is to irritate the feelings and sour the minds of the unsuccessful applicants. They make comparisons between themselves and those who have been successful, and self love always exaggerates their own merits and depreciates those of their successful rivals, to such an extent, that they believe themselves to have been injured. The President thus often makes one inactive friend, because he feels himself secure in office, and twenty secret enemies awaiting the opportunity to give him a stab whenever a favorable occasion may offer. The Senator greatly overrates the power of Executive influence either among the people or in Congress. By the time the offices have been all distributed, which is usually done between the inauguration and the first regular meeting of Congress thereafter, the President has but few boons to offer.

Again: it is always an odious exercise of Executive power to confer offices on members of Congress, unless under peculiar circumstances, where the office seeks the man rather than the man the office. In point of fact, but few members can receive appointments; and those soliciting them are always detected by

their conduct. They are immediately noted for their subserviency; and from that moment, their influence with their fellow members is gone.

By far the greatest influence which a President can acquire over Congress, is a reflected influence from the people upon their Representatives. This is dependent upon the personal popularity of the President, and can never be powerful, unless, from the force of his character, and the value of his past services, he has inspired the people with an enthusiastic attachment. A remarkable example of this reflected influence was presented in the case of General Jackson; and yet it is a high compliment to the independence, if not to the wisdom of Congress, that even he could rarely command a majority in both its branches. Still it is certain, notwithstanding, that he presented a most striking example of a powerful Executive; and this chiefly because he was deservedly strong in the affections of the people.

In the vicissitude of human events, we shall sometimes have Presidents who can, if they please, exercise too much, and those who possess too little influence over Congress. If we witnessed the one extreme during General Jackson's administration, we now have the other before our eyes. For the sake of the contrast, and without the slightest disrespect towards the worthy and amiable individual who now occupies the Presidential chair, I would say that if General Jackson presented an example of the strength, the present President presents an equally striking example of the feebleness, of Executive influence. I ask what has all the patronage of his high office done for him? How many friends has it secured? I most sincerely wish, for the good of the country, and for the success of his administration, that he had a much greater degree of influence in Congress than he possesses. It is for this reason that I was glad to observe, a few days ago, some symptoms of returning favor on this (the Whig) side of the house towards John Tyler. It is better, much better, even thus late, that they should come forward and extend to him a helping hand, than wishing to do so, still keep at a distance merely to preserve an appearance of consistency. I am sorry to see that from this mere affectation, they should appear so coy, and leave the country to suffer all the embarrassments which result from a weak Administration. [Here several of the Whig Senators asked jocosely why the Democrats did not volunteer their services to strengthen the Government.] Oh! said Mr. B., *we* cannot do that. What is merely an apparent inconsistency in the Whigs, would be

a real inconsistency in us. We cannot go for the Whig measures which were approved by President Tyler at the extra session. We cannot support the great Government Exchequer Bank of discount and exchange, with its three for one paper currency. I think, however, with all deference, that my Whig friends on this side of the House ought not to be squeamish on that subject. I think my friend from Georgia [Mr. Berrien] ought to go heart and hand for the Exchequer Bank. It is in substance his own scheme of a "Fiscal Corporation," transferred into the Treasury of the United States, and divested of private stockholders. Let me assure gentlemen that their character for consistency will not suffer by supporting this measure.

And yet, with the example of this Administration before their eyes, the Whigs dread Executive influence so much that they wish to abolish the veto power, lest the President may be able to draw within its vortex all the legislative powers of Congress! What a world we live in!

This authentic history is the best answer to another position of the Senator. Whilst he believes that there have been no encroachments of the General Government on the rights of the States, but on the contrary that it is fast sinking into the weakness and imbecility of the Confederation; he complains of the encroachments which he alleges to have been made by the President on the legitimate powers of Congress. I differ from him entirely in both these propositions, and am only sorry that the subject of the veto power is one so vast that time will not permit me to discuss them at present. This I shall, however, say, that the strong tendency of the Federal Government has, in my opinion, ever been to encroach upon the rights of the States and their people; and I might appeal to its history to establish the position. Every violent struggle, threatening the existence of the Union, which has existed in this country from the beginning, has arisen from the exercise of constructive and doubtful powers, not by the President, but by Congress. But enough of this for the present.

The Senator from Kentucky contends, that whether the Executive be strong or weak, Congress must conform its action to his wishes; and if they cannot obtain what they desire, they must take what they can get. Such a principle of action is always wrong in itself, and must always lead to the destruction of the party which adopts it. This was the fatal error of the Senator and his friends at the extra session. He has informed us that

neither " the Fiscal Bank " nor the " Fiscal Corporation " of that never to be forgotten session would have received twenty votes in either House, had the minds of members been left uninfluenced by the expected action of the Executive. This was the most severe censure which he could have passed on his party in Congress. It is now admitted that the Whig party earnestly advocated and adopted two most important measures, not because they approved them in the form in which they were presented, but for the sake of conciliating Mr. Tyler. Never was there a more striking example of retributive justice than the veto of both these measures. Whether it be the fact, as the Senator alleges, that the Whigs in Congress took the Fiscal Corporation bill, letter for letter, as it came from the President to them, I shall not pretend to decide. It is not for me to compose such strifes. I leave this to their own file leaders. Without entering upon this question, I shall never fail, when a fit opportunity offers, to express the gratitude which I feel, in common with the whole country, to the President for having vetoed those bills which it now appears never received the approbation of any person. It does astonish me, however, that this proceeding between the President and his party in Congress should ever have been made an argument in favor of abolishing the veto power.

This argument, if it prove any thing at all, sets the seal of condemnation to the measures of the late extra session, and to the extra session itself. It is a demonstration of the hasty, inconsiderate and immature legislation of that session. In the flush of party triumph, the Whigs rushed into it, before passion had time to cool down into that calm deliberation so essential to the wise and harmonious co-operation of the different branches of the Government. They took so little time to consult and to deliberate, to reconcile their conflicting opinions and interests, and above all to ascertain and fix their real political principles which they had so sedulously concealed from the public eye throughout the contest, that none but those who were heated and excited beyond the bounds of reason ever anticipated any result but division, disaster and defeat, from the extra session. The party first pursued a course which must have inevitably led to the defeat which they have experienced; and would then revenge themselves for their own misconduct by assailing the veto power.

The lesson which we have received will teach Congress hereafter not to sacrifice its independence by consulting the Executive will. Let them honestly and firmly pass such acts as they believe

the public good requires. They will then have done their duty. Afterwards let the Executive exercise the same honesty and firmness in approving these acts. If he vetoes any one of them, he is responsible to the people, and there he ought to be left.

Had this course been pursued at the extra session, Congress would have passed an act to establish an old-fashioned Bank of the United States, which would have been vetoed by the President. A fair issue would thus have been made for the decision of their common constituents. There would then have been no necessity for my friends on this side of the house to submit to the humiliation of justifying themselves before the people, on the principle that they were willing to accept something which they knew to be very bad, because they could not obtain that which they thought the public good demanded.

This whole proceeding, sir, presents no argument against the veto power; although it does present, in a striking light, the subserviency of the Whig party in Congress to Executive dictation. We may, indeed, if insensible to our own rights and independence, give an undue influence to the veto power; but we shall never produce this effect if we confine ourselves to our own appropriate duties, and leave the Executive to perform his. This example will never, I think, be imitated by any party in the country, and we shall then never again be tempted to make war on the veto power.

To show that this power ought to be abolished, the Senator has referred to intimations given on this floor, during the administration of General Jackson, that such and such acts then pending would be vetoed, if passed. Such intimations may have been in bad taste; but what do they prove? The Senator does not and cannot say that they ever changed a single vote. In the instances to which he refers, they were the declaration of a fact which was known, or might have been known, to the whole world. A President can only be elected by a majority of the people of the several States. Throughout the canvass, his opinions and sentiments on every leading measure of public policy are known and discussed. The last election was an exception to this rule; but another like it will never again occur in our day. If, under such circumstances, an act should pass Congress, notoriously in violation of some principle of vital importance, which was decided by the people at his election, the President would be faithless to the duty which he owed both to them and to himself, if he did not disapprove the measure. Any person might then declare, in

advance, that the President would veto such a bill. Let me imagine one or two cases which may readily occur. Is it not known from one end of the Union to the other, and even in every log cabin throughout its extent, that the Senator from Missouri [Mr. Benton] has an unconquerable antipathy to a paper currency and an equally unconquerable predilection for hard money? Now, if he should be a candidate for the Presidency.—and much more unlikely events have happened than that he should be a successful candidate—would not his election be conclusive evidence that the people were in favor of gold and silver, and against paper? Under such circumstances, what else could Congress anticipate whilst concocting an old-fashioned Bank of the United States, but that he would instantly veto the bill on the day it was presented to him, without even taking time to sit down in his Presidential chair? [Great laughter, in which Mr. Benton and Mr. Clay both joined heartily.] Let me present a reverse case. Suppose the distinguished Senator from Kentucky should be elected President, would he hesitate, or, with his opinions, ought he to hesitate, a moment in vetoing an Independent Treasury bill, should Congress present him such a measure? And if I, as a member of the Senate, were to assert, in the first case which I have supposed, whilst the bank bill was pending, that it would most certainly be vetoed, to what would this amount? Would it be an attempt to bring Executive influence to bear on Congress? Certainly not. It would only be the mere assertion of a well known fact. Would it prove any thing against the veto power? Certainly not; but directly the reverse. It would prove that it ought to be exercised—that the people had willed, by the Presidential election, that it should be exercised—and that it was one of the very cases which demanded its exercise.

An anticipation of the exercise of the veto power, in cases which had already been decided by the people, ought to exercise a restraining influence over Congress. It should admonish them that they ought not to place themselves in hostile array against the Executive, and thus embarrass the administration of the Government by the adoption of a measure which had been previously condemned by the people. If the measure be right in itself, the people will, at the subsequent elections, reverse their own decision, and then, and not till then, ought Congress to act. No, sir; when we elect a President, we do it in view of his future course of action, inferred from his known opinions; and we calculate, with great accuracy, what he will and what he will not

do. The people have never yet been deceived in relation to this matter, as has been abundantly shown by their approbation of every important veto since the origin of the Government.

This veto power was conferred upon the President to arrest unconstitutional, improvident, and hasty legislation. Its intention (if I may use a word not much according to my taste) was purely conservative. To adopt the language of the Federalist, "it establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body," [Congress.] Throughout the whole book, whenever the occasion offers, a feeling of dread is expressed, lest the legislative power might transcend the limits prescribed to it by the Constitution, and ultimately absorb the other powers of the Government. From first to last, this fear is manifested. We ought never to forget that the representatives of the people are not the people themselves. The practical neglect of this distinction has often led to the overthrow of Republican institutions. Eternal vigilance is the price of liberty; and the people should regard with a jealous eye, not only their Executive, but their legislative servants. The representative body, proceeding from the people, and clothed with their confidence, naturally lulls suspicion to sleep; and, when disposed to betray its trust, can execute its purpose almost before their constituents take the alarm.

It must have been well founded apprehensions of such a result which induced Mirabeau to declare, that, without a veto power in the king, who was no more, under the first Constitution of France, than the hereditary chief executive magistrate of a Republic, he would rather live in Constantinople than in Paris. The catastrophe proved his wisdom; but it also proved that the veto was no barrier against the encroachments of the Legislative Assembly; nor would it have saved his own head from the block, had he not died at the most propitious moment for his fame.

I might appeal to many passages in the history of the world to prove that the natural tendency of legislative power has always been to increase itself; and the accumulation of this power has, in many instances, overthrown Republican institutions.

Our system of representative Democracy, Heaven's last and best political gift to man, when perverted from its destined purpose, has become the instrument of the most cruel tyranny which the world has ever witnessed. Thus it is that the best things,

when perverted, become the worst. Witness the scenes of anarchy, confusion, and blood, from which humanity and reason equally revolt, which attended the French revolution, during the period of the Legislative Assembly and National Convention. So dreadful were these scenes, all enacted in the name of the people, and by the people's own representatives, that they stand out in bold relief from all the records of time, and are, by the universal consent of mankind, denominated " the reign of terror." Under the government of the Committee of Public Safety—a committee of the National Convention—more blood was shed and more atrocities committed, than mankind had ever beheld within the same space of time. And yet all this was done in the name of liberty and equality. And what was the result? All this only paved the way for the usurpation of Napoleon Bonaparte; and the people sought protection in the arms of despotism from the tyranny and corruption of their own representatives. This has ever been the course in which Republics have degenerated into military despotisms. Let these sacred truths be ever kept in mind: that sovereignty belongs to the people alone, and that all their servants should be watched with the eyes of sleepless jealousy. The Legislative Assembly and the National Convention of France had usurped all the powers of the Government. They each, in their turn, constituted the sole representative body of the nation, and no wise checks and barriers were interposed to moderate and restrain their action. The example which they presented has convinced all mankind of the necessity of a Senate in a Republic; and similar reasons ought to convince them of the necessity of such a qualified veto as exists under our Constitution. The people cannot interpose too many barriers against unwise and wicked legislation, provided they do not thereby impair the necessary powers of the Government. I know full well that such scenes as I have just described cannot occur in America; but still we may learn lessons of wisdom from them to guide our own conduct.

Legislative bodies of any considerable number are more liable to sudden and violent excitements than individuals. This we have all often witnessed; and it results from a well known principle of human nature. In the midst of such excitements, nothing is more natural than hasty, rash, and dangerous legislation. Individual responsibility is, also, diminished, in proportion to the increase of the number. Each person, constituting but a small fractional part of the whole mass, thinks he can escape

responsibility in the midst of the crowd. The restraint of the popular will upon his conduct is thus greatly diminished, and as one of a number he is ready to perform acts which he would not attempt upon his own individual responsibility. In order to check such excesses, the Federalist tells us that this veto power, or reference of the subject to the people, was granted.

Again, sir, highly excited political parties may exist in legislative assemblies, so intent upon grasping or retaining power, that in the struggle they will forget the wishes and the interests of the people. I might cite several examples of this kind in the history of our own legislation; but I merely refer to the odious and unconstitutional alien and sedition laws. Led on by ambitious and eloquent men who have become highly excited in the contest, the triumph of party may become paramount to the good of the country, and unconstitutional and dangerous laws may be the consequence. The veto power is necessary to arrest such encroachments on the rights of the States and of the people.

But worst of all is the system of "*log-rolling*," so prevalent in Congress and the State Legislatures, which the authors of the Federalist do not seem to have foreseen. This is not a name, to be sure, for ears polite; yet, though homely, it is so significant of the thing, that I shall be pardoned for its use. Now, sir, this very system of log-rolling in legislative bodies is that which has involved several of the States in debts for internal improvements, which I fear some of them may never be able to pay. In order to carry improvements which were useful and might have been productive, it was necessary to attach to them works of an opposite character. To obtain money to meet these extravagant expenditures, indulgence was granted to the banks at the expense of the people. Indeed it has been a fruitful source of that whole system of ruinous and disastrous measures against which the Democracy have been warring for years. It has produced more distress in the country than can be repaired by industry and economy for many days to come. And yet how rarely has any Executive had the courage to apply the remedy which the veto power presents!

Let us, for a moment, examine the workings of this system. It is the more dangerous, because it presents itself to individual members under the garb of devotion to their constituents. One has a measure of mere local advantage to carry, which ought, if at all, to be accomplished by individual enterprise, and which could not pass if it stood alone. He finds that he cannot accom-

plish his object, if he relies only upon its merits. He finds that other members have other local objects at heart, none of which would receive the support of a majority if separately considered. These members, then, form a combination sufficiently powerful to carry the whole; and thus twenty measures may be adopted, not one of which separately could have obtained a respectable vote. Thanks to the wisdom and energy of General Jackson, this system of local internal improvements which threatened to extend itself into every neighborhood of the nation, and overspread the land, was arrested by the veto power. Had not this been done, the General Government might, at the present day, have been in the same wretched condition with the most indebted States.

But this system of "log-rolling" has not been confined to mere local affairs, as the history of the extra session will testify. It was then adopted in regard to important party objects, and was called the "great system of measures of the Whig party." It was openly avowed that the majority must take the system in mass, although it is well known that several of the measures, had they stood alone, would have been rejected in detail. We are all perfectly aware that this was the vital principle of the extra session. By means of "log-rolling" the system was adopted. That the passage of the Distribution bill was the price paid for the Bankrupt bill, was openly avowed on this floor. By what mutual compensations the other measures were carried we are left to infer, and therefore I shall not hazard the expression of any opinion in this place on the subject. The ingredient which one member could not swallow alone went down easily as a component part of the healing dose. And what has been the consequence? The extravagant appropriations and enormous expenses of the extra session have beggared the Treasury.

It is to check this system, that the veto power can be most usefully and properly applied. The President of the United States stands "solitary and alone," in his responsibility to the people. In the exercise of this power, he is emphatically the representative of the whole people. He has the same feeling of responsibility towards the people at large which actuates us towards our immediate constituents. To him the mass of the people must look as their especial agent; and human ingenuity cannot devise a better mode of giving them the necessary control than by enabling him to appeal to themselves in such cases, by

means of the veto power, for the purpose of ascertaining whether they will sanction the acts of their Representatives. He can bring each of those measures distinctly before the people for their separate consideration, which may have been adopted by log-rolling as parts of a great system.

The veto power has long been in existence in Pennsylvania, and has been often exercised, and yet, to my knowledge, it never has been exerted in any important case, except in obedience to the public will, or in promotion of the interests of the people. Simon Snyder, whose far-seeing sagacity detected the evils of our present banking system, whilst they were yet comparatively in embryo, has rendered himself immortal by his veto of the forty banks. The system, however, was only arrested, not destroyed, and we are now suffering the evils. The present Governor has had the wisdom and courage repeatedly to exercise the veto power, and always, I believe, with public approbation. In a late signal instance, his veto was overruled, and the law passed by a majority of two-thirds in both Houses, although I am convinced that at least three-fourths of the people of the State are opposed to the measure.

In the State of Pennsylvania, we regard the veto power with peculiar favor. In the convention of 1837, which was held for the purpose of proposing amendments to our Constitution, the identical proposition now made by the Senator from Kentucky was brought forward, and was repudiated by a vote of 103 to 14. This convention was composed of the ablest and most practical men in the State, and was almost equally divided between the two great rival parties of the country; and yet, in that body, but fourteen individuals could be found who were willing to change the Constitution in this particular.

Whilst the framers of the Constitution thought, and thought wisely, that in order to give this power the practical effect they designed, it was necessary that any bill which was vetoed should be arrested, notwithstanding a majority of Congress might afterwards approve the measure; on the other hand, they restrained the power, by conferring on two-thirds of each House the authority to enact the bill into a law, notwithstanding the veto of the President. Thus the existence, the exercise, and the restraint of the power are all harmoniously blended, and afford a striking example of the mutual checks and balances of the Constitution, so admirably adapted to preserve the rights of the States and of the people.

The last reason to which I shall advert why the veto power was adopted, and ought to be preserved, I shall state in the language of the seventy-third number of the Federalist:

> The propensity (says the author) of the Legislative Department to intrude upon the rights, and to absorb the powers of the other departments, has been already more than once suggested. The insufficiency of a mere parchment delineation of the boundaries of each, has also been remarked upon, and the necessity of furnishing each with constitutional arms for its own defence, has been inferred and proved. From these clear and indubitable principles results the propriety of a negative, either absolute or qualified, in the Executive, upon the acts of the legislative branches.

The Executive, which is the weaker branch, in the opinion of the Federalist, ought not to be left at the mercy of Congress, "but ought to possess a constitutional and effectual power of self-defence." It ought to be able to resist encroachments on its constitutional rights.

I admit that no necessity has ever existed to use the veto power for the protection of the Executive, unless it may possibly have been in a single instance; and in it there was evidently no intention to invade his rightful powers. I refer to the "Act to appoint a day for the annual meeting of Congress." This act had passed the Senate by a majority of 34 to 8; but when it was returned to this body by General Jackson with his objections, the majority was reversed, and the vote stood but 16 in favor to 23 against its passage.

The knowledge of the existence of this veto power, as the framers of the Constitution foresaw, has doubtless exerted a restraining influence on Congress. That body have never attempted to invade any of the high Executive powers. Whilst such attempts have been made by them to violate the rights of the States and of the people, and have been vetoed, a sense of justice, as well as the silent restraining influence which proceeds from a knowledge that the President possesses the means of self protection, has relieved him from the necessity of using the veto for this purpose.

Mr. President, I did not think, at the time of its delivery, that the speech of the distinguished Senator from Kentucky was one of great power; although we all know that nothing he can utter is devoid of eloquence and interest. I mean only to say that I did not then believe his speech was characterized by his usual ability; and I was disposed to attribute this to the feeble state of his health and the consequent want of his usual buoyancy of spirit. Since I have seen it in print, I have changed my

opinion; and for the first time in my life I have believed that a speech of his could appear better and more effective in the reading than in the delivery. I do not mean to insinuate that any thing was added in the report of it; for I believe it contains all the arguments used by the Senator and no more; but I was astonished to find, upon a careful examination, that every possible argument had been urged which could be used in a cause so hopeless. This is my apology for having detained the Senate so long in attempting to answer it.

[Mr. Clay observed that he never saw the speech, as written out by the Reporter, till he read it in print the next morning; and, although he found some errors and misconceptions, yet, on the whole, it was very correct, and, as well as he could recollect, contained all the arguments he did make use of, and no more.]

Mr. Buchanan. I did not intend, as must have been evident to the Senator, to produce the impression that any thing had been added. My only purpose was to say that it was a better speech than I had supposed, and thus to apologise to the Senate for the time I had consumed in answering it.

I shall briefly refer to two other arguments urged by the Senator, and shall then take my seat. Why, says he, should the President possess the veto power for his protection, whilst it is not accorded to the Judiciary? The answer is very easy. It is true that this power has not been granted to the Judiciary in form; but they possess it in fact to a much greater extent than the President. The Chief Justice of the United States and his associates, sitting in the gloomy chamber beneath, exercise the tremendous and irresponsible power of saying to all the departments of the Government, "hitherto shalt thou go, and no further." They exercise the prerogative of annulling laws passed by Congress, and approved by the President, whenever in their opinion the legislative authority has transcended its constitutional limits. Is not this a self-protecting power much more formidable than the veto of the President? Two-thirds of Congress may overrule the Executive veto; but the whole of Congress and the President united cannot overrule the decisions of the Supreme Court. Theirs is a veto on the action of the whole Government. I do not say that this power, formidable as it may be, ought not to exist: on the contrary, I consider it to be one of the wise checks which the framers of the Constitution have provided against hasty and unconstitutional legislation, and as a part of the great system of mutual restraints which the people have imposed on

their servants for their own protection. This, however, I will say, and that with the most sincere respect for the individual judges; that in my opinion, the whole train of their decisions from the beginning favors the power of the General Government at the expense of State rights and State sovereignty. Where, I ask, is the case to be found upon their records, in which they have ever decided that any act of Congress, from the alien and sedition laws until the present day, was unconstitutional, provided it extended the powers of the Federal Government? Truly they are abundantly able to protect their own rights and jurisdiction against either Congress or the Executive, or both united.

Again: the Senator asks, why has not the veto been given to the President on the acts of conventions held for the purpose of amending our Constitutions? If it be necessary to restrain Congress, it is equally necessary, says he, to restrain conventions. The answer to this argument is equally easy. It would be absurd to grant an appeal, through the intervention of the veto, to the people themselves, against their own acts. They create conventions by virtue of their own undelegated and inalienable sovereignty; and when they speak, their servants, whether Legislative, Executive, or Judicial, must be silent. Besides, when they proceed to exercise their sovereign power in changing the forms of their Government, they are peculiarly careful in the selection of their delegates—they watch over the proceedings with vigilant care, and the Constitution proposed by such a convention is never adopted until after it has been submitted to the vote of the people. It is a mere proposition to the people themselves, and leaves no room for the action of the veto power.

[Here Mr. Clay observed, that Constitutions, thus formed, were not afterwards submitted to the people.]

Mr. Buchanan. For many years past, I believe that this has always been done, as it always ought to be done, in the States: and the Federal Constitution was not adopted until after it had been submitted to a convention of the people of every State in the Union.

So much in regard to the States. The Senator's argument has no application whatever to the Federal Constitution, which has provided the mode of its own amendment. It requires two-thirds of both Houses, the very majority required to overrule a Presidential veto, even to propose any amendment; and before such an amendment can be adopted, it must be ratified by the Legislatures, or by conventions, in three-fourths of the several

States. To state this proposition, is to manifest the absurdity, nay, the impossibility of applying the veto power of the President to amendments, which have thus been previously ratified by such an overwhelming expression of the public will. This Constitution of ours, with all its checks and balances, is a wonderful invention of human wisdom. Founded upon the most just philosophical principles, and the deepest knowledge of the nature of man, it produces harmony, happiness, and order, from elements which, to the superficial observer, might appear to be discordant.

On the whole, I trust not only that this veto power may not be destroyed, but that the vote on the Senator's amendment may be of such a character as to settle the question, at least during the present generation. Sir, of all the Executive powers, it is the one least to be dreaded. It cannot create; it can originate no measure; it can change no existing law; it can destroy no existing institution. It is a mere power to arrest hasty and inconsiderate changes, until the voice of the people, who are alike the masters of Senators, Representatives and President, shall be heard. When it speaks, we must all bow with deference to the decree. Public opinion is irresistible in this country. It will accomplish its purpose by the removal of Senators, Representatives, or President, who may stand in its way. The President might as well attempt to stay the tides of the ocean by erecting mounds of sand, as to think of controlling the will of the people by the veto power. The mounting waves of popular opinion would soon prostrate such a feeble barrier. The veto power is every thing when sustained by public opinion; but nothing without it.

What is this Constitution under which we live, and what are we? Are we not the most prosperous, the most free, and amongst the most powerful nations on the face of the earth? Have we not attained this pre-eminence, in a period brief beyond any example recorded in history, under the benign influence of this Constitution, and the laws which have been passed under its authority? Why, then, should we, with rude hands, tear away one of the cords from this wisely balanced instrument, and thus incur the danger of impairing or destroying the harmony and vigorous action of the whole? The Senator from Kentucky has not, in my opinion, furnished us with any sufficient reasons.

And after all, what harm can this veto power ever do? It can never delay the passage of a great public measure, demanded by the people, more than two or, at the most, four years. Is it not

better, then, to submit to this possible inconvenience, (for it has never yet occurred,) than to destroy the power altogether? It is not probable that it ever will occur; because if the President should disregard the will of the people on any important constitutional measure which they desired, he would sign his own political death warrant. No President will ever knowingly attempt to do this; and his means of knowledge, from the ordeal through which he must have passed previous to his election, are superior to those of any other individual. He will never, unless in cases scarcely to be imagined, resist the public will when fairly expressed. It is beyond the nature of things to believe otherwise. The veto power is that feature of our Constitution which is most conservative of the rights of the States and the rights of the people. May it be perpetual!

REMARKS, FEBRUARY 3, 1842,

ON A RESOLUTION FOR THE APPOINTMENT OF A CLERK TO THE COMMITTEE ON MANUFACTURES.[1]

Mr. Buchanan wanted to submit a few words, as the lawyers would say, to "exclude a conclusion." He was consulted a few days ago, as to whether he would be willing to employ a clerk; and he answered, from courtesy, that if a majority thought a clerk to be necessary, he would vote for one. But he protested against any attempt, in either quarter of the Senate, to create a discussion as to a home valuation, on the simple proposition to employ a clerk. He wished to carry out fairly the principles of the Compromise act; and if the Committee on Manufactures thought that they could get such information as would benefit him, he would be extremely happy in their success. When the tariff question came up, he would be prepared to express his opinions upon the subject; and he believed that, if a little forbearance was exercised, the question would, toward the end of the session, settle itself. He showed that, under existing laws, our debt would already amount to $17,000,000; that no member of either House, so far as he knew, was in favor of an annually increasing debt; that all preferred the imposition of increased duties on imports to borrowing more and more money; and all

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 204, 205.

were willing to provide in this manner for the necessary wants of the Government. That even after the proceeds of the public lands should be recalled, and the expenditures of the Government reduced by a wise economy, it would still be necessary to impose additional revenue duties to meet the necessities of the Government, and in this he was persuaded no Senator would object.

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Mr. Buchanan said that it had gone abroad that he had much influence with the President of the United States; and that the Senator from Kentucky [Mr. Clay] was the author of the report, for in describing an imaginary scene supposed by the Senator as possible to have taken place at the Executive mansion, the Senator had put into his mouth a much more eloquent speech than he could have made himself. As he had never contradicted this picture of the imagination, some persons had taken it for granted that it was true, and, as a consequence he had received letters from applicants for office, asking him to interfere in their behalf; and hardly a day passed without receiving letters of a similar import. The picture was not only a fancy sketch, but he did not see the President until some days after it was drawn, and then he thanked him, in the name of the people, for his veto of the Bank bill, which he had since been informed, not one man in the Senate approved. So he hoped that the rumor would not go abroad that he had any influence with the President. He then replied to Mr. Mangum upon the subject of reform.

REMARKS, FEBRUARY 8, 1842,

ON THE DISTRIBUTION OF THE PUBLIC LANDS.[1]

Mr. Buchanan remarked that much more importance had been given to the subject than it deserved. What was the true question before the Senate? Whether the subject should be con-

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 217. The subject before the Senate was a resolution to instruct the Committee on Public Lands to inquire into the expediency of providing by law that, whenever any State should refuse its proportion of the public lands, such proportion should be distributed among the residue of the assenting States, etc. Mr. King moved to amend the resolution, by striking out the words "such proportion shall be distributed among the residue of the assenting States." The amendment was lost, and the resolution was adopted.

sidered of transferring to the assenting States the distributive shares of the proceeds of the public lands which other States refused to receive. He should vote for the proposition of the Senator from Alabama, [Mr. King,] but not because he thought the subject ought to be inquired into. The assenting States had no right to the proportion of the public lands which any State or States might refuse to accept; and the assenting States had just about as much claim to it as he [Mr. Buchanan] had to Ashland, or to any other property belonging to the Senator from Kentucky.

Mr. Smith of Indiana conceived that, by striking out the clause specified by the Senator from Alabama, the resolution would, in effect, remain precisely as it now was.

Mr. Sevier said that as gentlemen advanced in life they became fond of talking, and he thought that they had shown it on the present occasion. Congress had been in session for the space of ten weeks, and had not spent three days in the transaction of business, but nearly the whole time of the Senate had been taken up in discussing abstractions (he meant no offence) and nonsense, as they had been during this whole day.

Mr. Buchanan, (with a smile.) I call the gentleman to order.

Mr. Sevier, (pleasantly.) I will take my seat, sir.

Mr. Buchanan. My point of order is based upon the imputation that the Senate could talk nonsense. [Laughter.] But I withdraw my objection.

REMARKS, FEBRUARY 14, 1842,

ON AN INVESTIGATION OF THE NEW YORK CUSTOM HOUSE.[1]

A debate took place in the Senate on a resolution offered by Mr. Pierce, calling upon the Secretary of the Treasury for information as to any commission or other authority issued by him for the investigation of the affairs of the New York customhouse, and as to any proceedings thereunder.

Mr. Buchanan had but two or three words to say on this matter. He concurred with the Senator from Kentucky, that the injunction of the Constitution did not authorize the Executive to issue commissions, appoint officers, and fix salaries, with-

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 231–232.

out the authority of Congress, for he considered such a power would be an entire change of Government.

As to the sending of young men to France to learn to ride on horseback, the Senator had a happy knack of ridicule; and the whole amount of the matter was, that the Secretary of War had sent some young officers to France for the purpose of learning military discipline in an arm of service in which the army of the United States had not much experience. He would not say whether this exercise of authority was right or wrong; but if these officers received only their lawful pay, and went abroad to get information, it might be justified. If, however, they were sent merely to learn to ride, they had better been sent to the Camanches, who were better horsemen than the French. The Senator told them not to "halloo until they got out of the woods;" but were they never to get out? They had been hallooing for a long time, and had been calling for specifications of alleged abuses; they had been calling "spirits from the vasty deep" for nearly a year, but none had made their appearance. They had no specifications, and they could not lay their hands upon them. He hoped Senators would hasten their examination, and he would go along with them. It was very probable, nay, certain, that some abuses had existed in the New York custom-house, for the vigilance of the late Administration could not prevent officers confided in from being acted upon by the corrupting influences of every petty as well as every powerful influence surrounding them; all it could do was to watch and seek for proof and then act upon it by removing delinquents. But the charges from the other side had been promulgated against the Administration itself. It was satisfactory to the friends of that Administration to have it now demonstrated that they had been calling for a year, and no proofs had been sent to them. When he saw the name of Samuel Swartwout, as a candidate for the Vice Presidency, (on the same Presidential ticket with a distinguished gentleman now in the cabinet,) he looked for abuses, for, whenever a collector of customs turned politician, it became his interest to accommodate merchants so as to secure their support, and then farewell to honesty. Who could say a word against the present collector? Did not that officer sweep the custom-house as with a besom of destruction? Did he not remove those who were there when he went into office, and was not the custom-house now under the control of the Senator's friends, both high and low? Whence, then, was the necessity for a

commission? Was not the custom-house filled by Democratic Whigs, whose duty it was to detect frauds committed by their predecessors? He did not know in what position the Whigs stood; but did they not support the President, with the exception of his two vetoes, and had not President Tyler approved all their other acts? He was, then, a Whig President, with the exception of a Bank of the United States; and, according to the admission of the Senator from North Carolina, [Mr. Mangum,] the head of the Treasury Department was above all suspicion.

Mr. Mangum. As far as I know.

Mr. Buchanan said that the office of First Comptroller was given to that gentleman by General Harrison, (whose decease no man sincerely lamented more than he did,) and why had not that gentleman been appealed to, to ferret out some of these abuses? But let Senators inquire of the head of the Treasury Department, and ascertain the extent of the abuses, and, when they did so, if they did not find him as ready as any Senator to correct them, he was mistaken in his own opinion. Let them have the facts, and then it would be time enough to criminate and recriminate; and he presumed that all abuses had ceased since Mr. Curtis went into office, but still they ought to look and see how he had proceeded.

Mr. Clay was very sorry that the Senator from Pennsylvania, seated as he was, near him and his (Mr. Clay's) friends, had not imbibed some of the principles which actuated the Whigs upon his side of the chamber, and he had hoped that a little of those principles would have reached the Senator's heart; but the Senator would still attach himself to the other side, notwithstanding all his (Mr. Clay's) kind attentions. They had, however, gained something, and he gave the gentleman credit for his candor in assenting to his (Mr. Clay's) principles with regard to the appointment of the commission. The Senator was, so far as that was concerned, a good Whig, and he congratulated him on the conversion, and hoped that he would be restored to religion and to patriotism once more. But the Senator seemed to have got too much in his head about Presidential candidates; and, according to his (Mr. Clay's) recollection, this Sam Swartwout never was a candidate for the Vice Presidency——

Mr. Buchanan. You don't read the newspapers.

Mr. Clay said that he read too many of them, and that his friend from Pennsylvania had been reviewing this subject with too much scrutiny and nicety. But where was the sleepless eye

of eternal vigilance that watched over the Treasury Department when Sam Swartwout was nominated for the Vice Presidency, and previous to which frauds had been committed at the custom-house? He would, however, take the occasion to say that he believed that Mr. Van Buren was originally opposed to the appointment of Mr. Swartwout, and he had understood that the Senator from Pennsylvania was also opposed to the appointment; still the selection was made by the man of the iron will. It was impossible for gentlemen to escape from responsibility. Jesse Hoyt was appointed by Mr. Van Buren, but the appointment was made against the consent of the Senator from New York. With regard to the increase of the cost of collection at New York, the per cent. was 1.43 under the collectorship of Jonathan Thompson, but under that of Swartwout it was 2.67. If the Senator would not be responsible for this, would he answer for Jesse Hoyt?

Mr. Buchanan. No, sir.

Mr. Clay. What in the Devil are you responsible for? He was a thorough-going Loco Foco; he never had any Whig sympathy, and yet the Senator had no sympathy for Hoyt. Does the Senator charge the Whigs with responsibility?

Mr. Buchanan. I don't know.

Mr. Clay said that he would be extremely happy to know, and that bad as Sam was, the cost of collection had nearly doubled under the administration of Jesse Hoyt, and had increased to 5.17. Under Mr. Jonathan Thompson, with a revenue of fifteen millions, the total number of persons employed was 163, but after the first year of Sam Swartwout, the number was increased to 199, and it then ranged from year to year as follows: 215, 243, 269, 328, 334, 407. Jesse came in with 407 persons, and the number went up to 487, and afterwards came down to 481, then increased to 470 [*sic*]; amounting in all to seventy more than the number employed by the candidate for the Vice Presidency.

Mr. Buchanan said that the Senator from Kentucky had commenced his remarks by saying that he was very sorry that his (Mr. Buchanan's) vicinity to him and his friends had not produced greater effects upon him. Perhaps the effect indicated might have been produced if he had not been so near to the Senator; and he would have stood a better chance of converting him, if they had been at a greater distance. He was on the anxious seat, however, and the Senator from Kentucky had brought him to it; and just at the moment when he was undergoing conver-

sion, his preacher and confessor began to swear, and exclaim, "What in the Devil are you responsible for?" The Senator will not be able to shift from himself and his party the responsibility of proving to the country the corruptions which they accused the late Administration of, by diverting attention to Jesse Hoyt or any other custom-house officer. The charges made in the face of the country by the Whig party, and which they pledged themselves to prove beyond a shadow of doubt the moment they got into power, were those of enormous corruption and abuses; and when the party did get into power, one of its first acts was to appoint six of its own commissioners to ferret out the abuses and corruptions of the New York custom-house, with which they were to astound the country. Yet now, after ten months' investigation—after the inquiry has penetrated every thing—when the friends of the late Administration call for the proof—when they demand the exposure of the alleged corruptions and abuses, instead of being fairly met with the facts and evidence, and the documents elicited by the investigation, they are told of Jesse Hoyt's and Samuel Swartwout's appointment by General Jackson! Did not every one know all about that before the late Presidential election? Every one knew that Swartwout served out his second term of office, and was refused to be re-appointed by Mr. Van Buren. Every one knew his defalcations were not found out till many months after the refusal of his re-appointment. General Jackson appointed him because he thought him an honest man. All, however, are liable to be mistaken in regard to public men; and, once finding out our error, all that could be done was to remove the obnoxious officer. He, Mr. B., had not been convicted of inconsistency in regard to the authority by which the commission was appointed, or any commission. He believed the authority was not vested in the President, and that it must come from Congress. His opinion was now, upon this subject, what it always had been, and no inconsistency had been pointed out.

Mr. Clay observed that in regard to the officers in the Government, he would say that they had not been long enough in office to correct all the abuses of the Government which had existed for so many years. They had not been long enough in office to ferret them out. It was known to the whole country that the relations of the Whig party had not been of that confidential character necessary to success. It was known too, that the heads of the present Departments had not been there for

more than five months—that changes had been made growing out of a difference of opinion among friends. But he would say that the annals of no country had exhibited such a state of things—such a determined adherence to principle as had been manifested by the Whigs since November last. Had it been otherwise, they would not have refused terms with the Executive. They scorned to abandon their principles, and would receive patronage for themselves and their friends upon no such terms. And yet gentlemen here who visited the Executive mansion in crowds, and were praising him every day, were calling upon us before there was time to make reforms, to correct abuses which had existed for years. This puffing and praising of the President, from whom the Whigs in Congress were most unfortunately alienated, was for no other purpose than to mislead the President. He would not impeach the motives of gentlemen who made these advances. He would not say what the motives were. He would state what was his conviction, and that was, that the gentlemen had no design of supporting the Executive in any of his public measures.

Mr. Buchanan was not disposed to have the last word in the discussion, and would not insist upon it. However, he had a few words to say, and would say them seriously. In regard to the Administration, he had done no more than to defend the head of it for his two vetoes. He believed the President to be a very amiable and honest man, but nothing had been said in his defence by his Democratic opponents, except upon these two questions. Upon all other questions there had been a concurrence of opinion between the President and the Whigs in Congress. He regretted that there was not more unity of opinion between them, and that there seemed to be no party in the Senate to defend the President.

Mr. Clay said he regretted also, and most deeply, the state of relations which unhappily existed between the Executive and the Legislative branches of the Government. He could appeal to the Senator and the Senator's friends, that he had endeavored to avoid it. They found, as an inheritance, an empty Treasury, a bankrupt Government, embarrassment everywhere. They were compelled to supply these deficiencies, and how had they been aided, in this state of embarrassment, by the gentlemen interested as much as themselves in the preservation of the honor of the country? Gentlemen had opposed them in all their efforts to relieve the Government in most of the measures of the extra

session. He thought, in this opposition, gentlemen had not dealt with their opponents as they had been dealt by, when they were in power, and had a right to prescribe their own forms of measures.

The gentlemen with whom he acted here were disposed to and would support the Administration whenever they could; and in regard to the present state of things, he hoped that it would result in good, particularly as the spirit of patriotism seemed to be invoked by men of all parties.

Mr. Buchanan said that, on a future occasion, he would review the conduct of the two parties since the commencement of the present Administration, and would show, as he thought he could, that five millions of the expenses of the Government was brought about by the Whig party in consequence of their extravagance at the extra session.

Mr. Clay. Very well, sir. "Come on, Macduff."

Mr. Calhoun rose and observed, that he would not have said a word had not allusion been made to him by the Senator from Pennsylvania, implying that he had a very low estimate of his plan of economy and retrenchment by the Executive department.

Mr. Buchanan interposed. There was nothing in the world further from his intention than to reflect upon the Senator from South Carolina. He had said so in public and private, and upon all occasions. All he meant to say was, that reform could never be accomplished by general discussion. Detail was necessary.

Mr. Calhoun had not so understood the Senator from Pennsylvania. It was inferred that he had by general discussion sustained the reform proposed, when he had gone on, and at great personal labor, to procure and exhibit details for the accomplishment of reform. He was for specific reform, and the only way to accomplish it was to begin by correcting erroneous opinions in regard to the protective system and the taxing power, and then for the Executive to go to work in detail to bring down expenditures. Until this was done, Congress robbed the people in levying taxes. It was plunder, and nothing more; and reform and retrenchment could be accomplished in no other way than by correcting the erroneous doctrines which had grown up here in regard to tax.

Mr. Buchanan said he found himself between two fires—the Senator from Kentucky on the right, and the Senator from South Carolina on the left. He had not said that the Senator

from South Carolina had made a speech upon mere generalities. He only said that the remarks of the Senator did not apply the remedies. They pointed out the remedy only.

REMARKS, FEBRUARY 16, 1842,

ON CLAIMS AGAINST MEXICO.[1]

A debate took place on a resolution offered by Mr. Walker, calling upon the President for information as to claims against Mexico and the proceedings of the mixed commission under the convention with that country.

Mr. Buchanan said that the unsuccessful claimants under the Mexican treaty could have but one of two objects in view by pressing their claims before the Senate. The first was to have the claims, against which the commissioners had decided, paid out of the public Treasury; and the second, to ask our interposition to procure their payment from the Mexican Government.

In regard to the first, he was utterly opposed to any step which might even seem, in the most distant manner, to recognise any responsibility on the part of the Government. There was no principle upon which we could be rendered liable, and he did not wish to hold out expectations to the claimants which could never be realized.

In regard to the second, the United States had negotiated a treaty with Mexico, under which the existing Mixed Commission was created, to decide judicially upon the validity of these claims. If the Mexican commissioners had violated the treaty, and, by fraudulent and improper conduct, had produced the rejection of just claims, which ought to have been allowed, this was a proper subject of negotiation by the Executive with the Mexican Government. In such an event, it might be proper for the Senate to interpose for the purpose of sustaining and strengthening the Executive in asserting the just claims of our citizens.

But what was the present condition of this judicial commission? They were about to bring their labors to a close. In the course of a few days the commissioners would have made all their final awards for and against all the claimants. Under such circumstances, he was unwilling to do any act which might inter-

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 241.

fere with the proceedings of these commissioners. Let them bring their labors to an end; and after this had been done, then, and not till then, ought the Senate to act upon this resolution. He hoped, therefore, that it might be referred to the Committee on Foreign Relations; to which the Senator from New York [Mr. Wright] had assented.

Mr. Walker would consent either that the resolution should go to the Committee on Foreign Relations, or that its consideration should be postponed and made the special order of the day for Monday week, which would be the day subsequent to that for the termination of the commission. He here, in his place, protested in the name of the American citizens whose rights have been violated, as he believed and thought, from the disclosures made by the partial report which had already been made in reply to a resolution of the Senate, and he protested against the keeping of the information which had been called for, in the secret bureaus of the Executive Department. He desired that these claimants should be heard, and so far as it was in his power, they should be heard, before this nation and before this tribunal; and he desired that, inasmuch as a partial report of the proceedings had been already referred to the Committee on Foreign Relations, no part of the proceedings should be kept back, but that all that the commissioners had done and had failed to do, should be laid before this body. If Senators looked to our commerce with Mexico for the last six or seven years, they would find that it had fallen almost to nothing, while the commerce of Mexico with other nations had increased. The exportation of specie from that country into New Orleans would show the condition of our commercial transactions with that nation. In 1836, the exports of silver were $3,657,000; in 1837, $4,785,000; in 1838, $1,754,000; in 1839, $1,710,000; in 1840, $1,004,574; and in 1841, $869,184. And what was the cause of this decrease? Why, it was because they had failed to protect the rights of American merchants and American citizens, and because they had, in effect, torn down the American flag within the limits of Mexico. American vessels had been seized, property confiscated, and justice made a mere mockery. The French commerce had increased with Mexico, for the reason that she protects her subjects, and demands that justice be done when an outrage is committed on the rights and property of citizens of France; and if this Government permitted outrages to be committed by Mexico on American commerce, it would soon go down to nothing. All

that he desired was that the facts should be laid before the people of this country, that they may know whether the Mexican Government had not violated the treaty, whether documents had not been withheld by Mexico, whether spurious and false documents had been furnished, in consequence of which just claims had been rejected. He, therefore, moved that the further consideration of the resolution be postponed and made the order of the day for Monday week.

Mr. Buchanan did not believe that the Senator from Mississippi had done justice to the course of this Government in enforcing these Mexican claims. It was true that General Jackson had recommended reprisals against Mexico; but under our treaty with that Government, we were obliged, before resorting to reprisals, to make a formal demand of all the claims, with the testimony in support of them; and if then Mexico refused to do the claimants justice, we might resort to war or reprisals. This, to be sure, was a strange provision to insert in a treaty; but there it was, and we were bound by it.

In obedience to the treaty, a formal demand, according to its stipulations, was made on Mexico; and this resulted in the present treaty. What more could the Government have done? If the Mexican commissioners had violated the treaty, to the injury of citizens of the United States, this might become the foundation of a new demand against the Mexican Government. When the proceedings should be before us, we could then judge whether this had been the case. But what more could the American Government have done in the first instance? Fraudulent and unjust conduct of the Mexican commissioners might render it our duty to proceed further hereafter; but, heretofore, there had been no just ground of complaint.

He could assure the Senator from Mississippi that he would cheerfully unite with him at the proper time in bringing all the proceedings of these commissioners before the Senate. Indeed he was anxious that this should be done; and as the Senator had agreed that his resolution might be postponed until after the commissioners had closed their labors, he would withdraw his motion to refer it to the Committee on Foreign Relations.

Mr. Linn said that as this resolution would be delayed, he would suggest to the Senator from Mississippi to strike out the latter clause of it, and permit his (Mr. Linn's) resolution which called for similar information, to be passed upon at the present time.

Mr. Walker had but one word to say with regard to doing their duty. If they had done their duty, their commerce with Mexico would not now be in a fallen and dilapidated state, whilst the commerce of other nations with that Government had increased. But while they were told that Government did full justice to its citizens, why was it that their commerce had dwindled down to nothing? He called on his friend to remember that when the treaty was presented to the Senate, he (Mr. Walker) protested against the convention, and said at the time, that it would be followed by disaster. This was not the measure General Jackson recommended; he proposed a different negotiation in his message, and that was to take the course that France had lately pursued—at the mouth of the cannon. If this had been done, they would have had no war, and they probably might have preceded France in battering down the walls of the Castle of Juan de Ulloa; and instead of their commerce with Mexico being reduced, it might now be as large as it ever was with that nation.

Mr. Buchanan called the recollection of the Senator from Mississippi to the circumstances attending the appointment, by the Government, of a special minister to carry out a list of the claims of American citizens and the testimony in their support, and to the fact that it was not till after this that the treaty was made. If the Mexican commissioners have violated the treaty and the rights of American citizens, this Government should call upon Mexico for redress, and require that Government to fulfil its obligation according to the treaty: but nothing should be required of the Government of the United States which would imply any right on its part to pay the claimants out of the public Treasury. If the Mexican commissioners have done injustice, the application of this Government should be to the Mexican Government to fulfil the treaty; but in any event let not this Government give, by direct or indirect action, any sanction to the idea that the claimants are to be paid out of the public Treasury.

Mr. Walker explained. He had no objection to the postponement of his resolution to a day subsequent to the close of the commission, and he acceded to the request of the Senator from Missouri, to omit that part of his resolution embraced in the Senator's resolution, so as to allow the latter to be put as a separate resolution.

This amendment was made, and the further consideration of Mr. Walker's resolution was postponed to Monday week.

The resolution of Mr. Linn was read as follows:

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, all the information in his possession which may relate to the recent outrages committed by the Mexican citizens or people on the person and property of the American Consul and other American citizens residing at Santa Fé and northern provinces of Mexico.

TO MISS LANE.[1]

WASHINGTON 16 February 1842.

MY DEAR HARRIET/

Your letter afforded me very great pleasure. There is no wish nearer my heart than that you should become an amiable & intelligent woman: and I am rejoiced to learn that you still continue at the head of your class. You can render yourself very dear to me by your conduct; and I anticipate with pleasure the months which I trust in Heaven we may pass together after the adjournment of Congress. I expect to be in Lancaster for a week or ten days about the first of April, when I hope to see you in good health & receive the most favorable reports of your behaviour.

Buck Yates is now a midshipman in the navy.[2] He is now at Boston on board of the John Adams & will sail in a few days for the Brasilian station. He may probably be absent for two or three years. He is much pleased with his situation, & I trust that his conduct may do both himself & his friends honor. When he left Meadville they were all well except your aunt Maria who still complains of a cough. Elizabeth is better than she has been for years.

I send you $13, the remains of poor Buck's money when he arrived here. It was of no use to him & would be of no use to me here. Please to hand it to your brother James & tell him to place it to my credit for what it is worth.

When you write to your sister Mary, give her my kindest & best love.

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[1] Buchanan Papers, private collection. Imperfectly printed in Curtis's Buchanan, I. 536.

[2] James Buchanan Yates, son of Mr. Buchanan's sister Maria, who married Dr. Yates, a physician in Meadville, Pennsylvania.

Remember me affectionately to your brother James, Miss Hetty & the Miss Crawfords & believe me to be ever your affectionate uncle. May Heaven bless you!

Miss Harriet B. Lane. James Buchanan.

REMARKS, FEBRUARY 18, 1842,

ON THE COMPROMISE ACT.[1]

Mr. Buchanan presented a memorial from Huntington county, Pennsylvania, asking for the duty on foreign iron imported to be restored to what it was in 1839. In reference to what the Senator from Kentucky had just stated with regard to General Jackson's opinions, and for the purpose of setting him right, he referred the Senator to the messages of that distinguished individual—particularly to that of the 4th December, 1832, from which he read an extract, and to his celebrated anti-Nullification message of 16th January, 1833.[2]

Mr. Clay stated the fact on his own responsibility, and in his place, and he could prove it, that General Jackson was opposed to the compromise act, and signed it with the greatest reluctance.

Mr. Buchanan remarked that General Jackson stated his objection to the compromise bill in the message to which he had referred.

Mr. Clay observed that he signed the bill.

REMARKS, MARCH 4, 1842,

ON THE DISTRIBUTION OF PRINTED COPIES OF THE LAWS AND OF STATE PAPERS.[3]

Mr. Buchanan said the proposition of the Senator from Ohio, as he understood its object, was an excellent one, and he would cheerfully vote for disposing of these books, almost on any

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[1] Cong. Globe, 27 Cong. 2 Sess. XI. 250.

[2] Mr. Clay, who had presented a memorial asking that the operation of the Compromise Act be arrested, had declared that, "if the Compromise Act had not been adopted, the whole system of protection would have been swept by the board by the preponderating influence of the illustrious man then at the head of the government (General Jackson), at the very next session after its enactment."

[3] Cong. Globe, 27 Cong. 2 Sess. XI. 282.

terms, and clearing the rooms which were now encumbered with them. He understood that the new standing committee of the Senator from Kentucky, [Mr. Morehead's Retrenchment Committee,] had, as yet, no resting place within this building. He hoped some disposition would be made of these books, if for no other reason, at least for the purpose of enabling that committee to commence its labors. He anxiously desired that that excellent committee should have an opportunity of beginning the work of reform with as little delay as possible. They were about to put an end to those generalities in the work of reform which they had been accustomed to pursue, and to descend to particulars. In this way alone could retrenchment be effectually accomplished. He would vote for almost any disposition which it might be proposed to make of these books, but he could not consent to vote books to himself for any reason which could be imagined. The contingent expenses of the Senate had become enormous. He was astonished at the amount to which their expenditure had been swelled; and he hoped the Senator from Kentucky would begin with these vast and irresponsible expenditures. The books were certainly the property of the Senate, and might be, as he had no doubt they would be if the resolution should be adopted, fairly and honestly distributed. But in what light would it be viewed? It would be, after all, a distribution to their friends; and if it were not to result in their immediate benefit, it gave them at least some degree of patronage, by giving them the opportunity of sending five beautifully bound volumes to whomsoever they might think proper. He was willing to give the Senator from Ohio a *carte blanche* as to the disposal of his (Mr. B.'s) vote upon this matter, provided, in the disposition which he might make of these books, he would have Senators wholly exonerated from the responsibility of their distribution. He could not vote in favor of giving them to themselves, or to their particular friends. He (Mr. Buchanan) did not want any of them for himself, or for distribution to his friends; and he would take this occasion to observe that he would be very glad indeed if the contingent expenses of the individual members of the Senate should be discontinued altogether. He had no doubt that, with the exception, perhaps, of the Senator from New York, he himself was in the habit of using more letter paper than any other member of that body. Indeed, since he had held a seat there, he had been scarcely able to attend to any thing else than his correspondence; and he was persuaded that $20 would pay for all the paper he

used in the course of a session; and for the credit of the Senate, he hoped that they would not, for the sake of this small sum, consent to entail upon the public funds so large a burden of expenditure as that which annually took place. He could not, therefore, vote either for the amendment or the original resolution; but he would say to the Senator from Ohio that he might do with his share just what he pleased, provided he did not ask him to receive them.

REMARKS, MARCH 8, 1842,

ON A MISREPRESENTATION.[1]

Mr. Clay said that when he came to the Senate to-day, he was not very well, but was filled with indignation at a matter which was brought to his notice by a friend. The Senate would do him the justice to testify that he did not pay any attention to newspaper paragraphs, but the one to which he would allude was so shocking, so atrocious, that he could not, in justice to his feelings, remain silent, especially as injustice had been done, not so much to himself as to a friend. In the course of the presentation of two petitions yesterday, he had occasion to say that one of them was from a number of ladies residing at Rahway, New Jersey, and that the other emanated from citizens of Pennsylvania. He was reproached by the Senator from that State for not having afforded him (Mr. Buchanan) an opportunity of saying something about the petition from the ladies. Now it would be recollected that he replied that he had not done so because it was not a proper subject for his deliberation, because he, (Mr. Buchanan,) after having lived a certain number of years, had never taken any lady under his protection! But a newspaper reporter had represented him as having assigned to the Senator from Pennsylvania the extraordinary age of fifty-five!! He called upon every grave Senator and upon every lady in the gallery who heard him, to testify whether he made any such remark. He believed that he said thirty-six years and upwards. [Laughter.]

Mr. Buchanan expressed his high gratification with the unexpected apology which he had just received from the Senator (Mr. Clay) for a most grievous insult. The Senator and him-

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 292.

self had had many passages of arms on this floor; but never before had he (Mr. B.) felt it so imperiously necessary to call him to the field of honor for any thing he had said in the course of debate. The injury to him might have been as serious as the insult was outrageous. The assertion from so high an authority that he (Mr. B.) was fifty-five and upwards, might have destroyed all his future prospects in life. He was happy, however, to acknowledge that the apology was prompt, manly and unequivocal, and left no stain whatever upon his character. He hoped, therefore, that the friendly relations which had heretofore existed between them would be cordially restored. As to the charge of the Senator that he (Mr. B.) was thirty-six and upwards, he would cheerfully confess the soft impeachment.

REMARKS, MARCH 8, 1842,

ON THE SUSPENSION OF SPECIE PAYMENTS.[1]

The Senate having before it the bill temporarily to suspend the operation of so much of the act of August 25, 1841, as inhibited banks in the District of Columbia, after March 1, 1842, from paying out or lending out the notes of any suspended bank, or any paper currency not equivalent to gold and silver,

Mr. Buchanan desired to express his decided opinion in favor of the immediate resumption of specie payments by the banks of this District. He was very sorry that none of his good friends on this (the Whig) side of the House had as yet risen to advocate the bill, and sustain the two Senators by whom it was brought forward, [Messrs. Bayard and Kerr.] Their arguments had already been so effectually answered by his friends from Ohio and New York, [Messrs. Allen and Wright,] that he could have no pretext whatever for speaking, except to manifest his hearty concurrence in supporting the cause of resumption.

He feared that when the vote should be taken, it would prove to be a strict party vote. There were " signs of the times " now visible to the naked eye, which had rarely deceived him, sufficient to convince him that every Whig in the Senate would vote for this bill, which, in effect, arrested resumption for a whole year, whilst it was absolutely certain that every Democrat must

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 293–294.

vote against it, or abandon his principles. He therefore believed that the Senator from Maryland [Mr. Kerr] was not far wrong in imputing to the Senator from Ohio [Mr. Allen] the suggestion that this was a party question. It had always been so, and never could be any thing else.

He could not refrain from observing that he had been very much disappointed in his friend from Delaware, [Mr. Bayard.] He had supposed, some days ago, that this gentleman would prove to be one of the most strenuous advocates for immediate resumption. The Senator had then discoursed so eloquently against broken banks and violated promises, that he had believed in his conversion. That was only theory, however; and he was sorry to perceive that when it came to practice, the Senator was found to be the advocate of continued suspension. Like many other Christians, he did not show his faith by his works. Mr. B. still hoped that the conversion of the Senator, though gradual, might at last be complete, and influence his life and conduct, and that they might yet be found battling on the same side.

He feared that the Senate was about to declare its determination in favor of the absolute suspension of specie payments until the first day of March next. No other construction could be placed upon the bill. He would ask, did the banks of this District at present pay specie? Did they issue any notes of their own? Was there, at this moment, any redeemable currency in circulation here? The act of August, 1841, had become, to all intents and purposes, a dead letter; for it was vain to say that the banks here should pay specie, whilst, by the same law, you conferred upon them unlimited power to deal in the most worthless irredeemable paper of other banks. Under that act, these banks were obliged to redeem their own circulation in specie. But what did they care for Congress? Any bungling contrivance was sufficient to place us at defiance. Instead of issuing their own notes, promising payment, they had used checks drawn upon themselves in the form of bank notes, and those are redeemable, not in gold and silver, but in any current trash which they may have in their possession. In the face of all this, they had very modestly applied for the extension of these privileges during another year; and the Senate would grant their request.

And now what was the state of public feeling throughout the country on this question? The whole people were moving in favor of immediate resumption, under the lead of that great, noble State in the West, (Ohio,) whose unawed Democracy had

acted with so much promptitude and decision on this subject. The remaining States, he trusted, would follow this excellent example without delay; indeed he hoped that within eight and forty hours, they should receive the welcome intelligence that his own Legislature had presented to the banks the alternative of "immediate resumption or death." He was exceedingly grieved to find that this Senate, which he was proud to say might compare with any Legislative Assembly on the earth, was about to declare, whilst these salutary movements were going on all around them, that the banks of this District should continue to suspend specie payments for another year. These banks would soon, he trusted, stand alone in their glory, and this District would become the only place of refuge for broken bank shinplasters. The bill was eminently calculated, he would not say intended, to produce this effect. There was no condition in it, as there had been in all former bills, requiring the banks here to cease dealing in irredeemable paper, when the banks of Maryland and Virginia should set the example; but it contained a broad, unlimited, and unconditional grant of this power until the first day of March, one thousand eight hundred and forty-three. Should this bill, in its present form, become a law, they would then have a little suspended District of ten miles square, under the exclusive jurisdiction of Congress, whilst they were surrounded on all sides by specie-paying banks. He would call upon Senators to reflect seriously upon what they were about to do. He had never, for his own part, felt any desire to make experiments on the banks of the District as he would on a mouse in an exhausted receiver, for the benefit of the whole country. On the contrary, he and other Democratic Senators, and he might refer even to his friend from Missouri, [Mr. Benton,] had granted them indulgences which he should never have been willing to extend to the banks in his own State. But the time for such expedients had passed away, and in the language of the Senator from Missouri "the glad sound of resumption was now heard throughout the land." Public opinion, in this country, was irresistible; and the banks every where must now resume or go into liquidation; unless, indeed, this District might constitute the exception.

What arguments had we always heard from the friends of the suspended banks? That they ought not to resume; and why? Not for the want of ability; oh! no; but because resumption would compel them to oppress their debtors. It was to save the borrowers then from the payment of their debts—these borrowers

who were most frequently the directors and stockholders of the banks themselves, that the community at large, who were obliged to receive irredeemable paper or get nothing in payment for their labor or their property, had been compelled to suffer. In order that the favorites of the banks might be relieved from pressure, the millions who had no interest whatever in these institutions must endure the penalty. This was a true, and not an imaginary picture.

He believed most solemnly that if resumption had been enforced in 1839, the country would not have suffered half as much as it had done; and the longer it was delayed, the greater would be the suffering. To compel specie payments at once, would be the dictate of mercy, as well as justice, to the oppressed millions. What had precipitated the city of Philadelphia from her lofty elevation, and brought her down to her present level? It was nothing on the earth but the refusal of the Legislature of Pennsylvania, at the proper time, to compel the banks to resume specie payments. When the banks of that city suspended, in October, 1839, it fell upon us like a clap of thunder from a cloudless sky. She was then in a state of comparative prosperity. Foreign exchanges were then in our favor. Specie was not demanded for exportation. There was no extraordinary pressure felt. Every thing was calm as a summer's morning. At the meeting of the banks in Philadelphia, nine voted against the suspension, whilst five only, including the Bank of the United States, voted in its favor. In the face of this vote, the great monster issued its mandate in favor of suspension, and on the very next morning, in order to save it from immediate ruin, all the other banks, disregarding the interests of their stockholders and the community, followed its example, and thus declared themselves willing to share its fate. These banks were then under no absolute necessity to suspend; but in less than six months from the time this unfortunate step was taken, they became completely powerless and could not have resumed even if they would. Having agreed to live or die with the Bank of the United States, they could not refuse to receive its notes in payment of debts or on deposit. Its desperate condition compelled it to issue its notes in large quantities; and they soon became the chief medium of circulation in the city and county of Philadelphia, and throughout many portions of the country. The Senator from Missouri had informed us that it sent its agents to the utmost extremities of the Union, loaded with its irredeemable notes, who captured the

gold and silver with them. This they sent to Europe, to satisfy their creditors there. In the mean time, the Bank of the United States was becoming more and more indebted every day to the other banks of Philadelphia for its notes received by them in payment of debts and on deposit: until at last they were reduced to their present lamentable condition. Had the Legislature promptly, at their next meeting after October, 1839, compelled resumption, this would have arrested the other banks in this ruinous career, and saved the people of the country from the curse of suffering two years under an irredeemable currency. Had this been done, the city of Philadelphia would now be standing on that proud and lofty eminence which he trusted she was soon destined to regain. In the mean time, her trade had languished, and a great portion of it had been transferred to New York, where the specie standard had been preserved. The days of her prosperity would soon again return, because her people now felt the truth of the maxim, in its full force, that honesty was the best policy, in regard to banks as well as individuals; and they would compel their banks to act upon this principle, whether the resumption bill should pass or not. He meant, of course, that this compulsion would be of a legal and constitutional character.

As to this bill, he thought they could scarcely do a worse act than to pass it; and he could assure the Senator from Delaware [Mr. Bayard] that its rejection would do the banks of this District no possible injury. They would not regard the existing law a button. Whether passed or rejected, their conduct would be precisely the same. Their ingenuity is such that you cannot catch them by any law, no matter how precise and positive. The truth is, they get along better without law than with it; because, to prescribe a law for them is only to impose upon them the guilt of violating it by resorting to some subterfuge; for violate it they will. In anticipation that Congress might not grant them the privileges which they ask, they have already made all the necessary arrangements to nullify the act of August last. They have already adopted a plan by which the cashiers of the respective banks, instead of the banks themselves, shall continue to deal in this irredeemable paper, and receive it on deposit, just as though no law existed against it. He asked the Senator from Delaware whether this statement was not correct.

Mr. Bayard here interposed to offer an explanation. He could not say whether such an arrangement had been made; but it had been proposed as being expedient. The object of the bill

was to enable them to do under sanction of law that which they would be obliged to do by another method if that sanction should be withheld.

Mr. Buchanan. Now this was a glorious argument in favor of the passage of the bill. The banks had determined in the first place to violate the existing law, and therefore the law must be changed to save them from the necessity of violating it. Was not that the Senator's argument?

Mr. Benton here rose and asked Mr. Buchanan to yield him the floor that he might move to lay the bill upon the table. After the admission which had been made by the Senator from Delaware, he thought its further consideration should be suspended until they obtained some information as to these facts.

Mr. Bayard again stated, that it was a mere suggestion of an expedient on the part of the bank for the purpose of carrying on business for the public accommodation.

Mr. Buchanan said he had almost forgotten where he had left off. There was no need for any further information than we already possessed on this subject. The Bank circular which had been produced by the Senator from Delaware himself was sufficiently positive and explicit. He then asked the Senator from Delaware for this precious document, and read it to the Senate.

BANK OF THE METROPOLIS,
WASHINGTON, Feb. 1, 1842.

SIR: As the banks in this District are restrained by their charters from paying out, after the first of March next, the notes of any suspended bank, or any paper which is not equivalent to gold and silver, I am directed by the Board of Directors to inform you, that previous to that day, whatever balance in current notes may remain to your credit in this bank, will be placed in the hands of Richard Smith, the cashier of this bank, to be held by him individually, to pay over to you at such time, and in such amounts, as may suit your convenience, in funds similar to those you deposited, for the payment of which this bank will be responsible.

Should it be desired by you to make further deposits in current funds with Mr. Smith, he will be permitted by the bank to receive them; and such deposits being placed in this bank by him, will be equally safe to the depositors, as if they had been made with the bank direct.

Special deposits will be received by the bank as heretofore.

I am, very respectfully,
Your obedient servant.

Now, did not this circular cover the whole ground? not only that which was past, but that which was to come? If this bill should not become a law, what would be the only conse-

quence? Simply, that A. B., when he had a deposit to make, or any other banking business to transact, would go to the cashier of the bank, in the bank itself, and make his deposit or transact his business with him as an individual, and not as cashier, and the law was at once evaded. A most ingenious expedient, truly! The Senator from Delaware had said, in substance, in behalf of these banks, "we are determined to violate your law; but we would rather not. To save ourselves from this necessity, we wish you to pass the present bill." As if a man were to come forward and inform you that he had determined to commit a crime against law, and that you must therefore repeal the law, in order to save his conscience. It was reserved for the banks to discover this ingenious argument.

He (Mr. Buchanan) yet trusted, although he knew it was hoping against hope, that the Senate might not lend its sanction to such a bill. For his own part, he was prepared to come up boldly to the work as a party man, and rise or fall in sustaining the principles of his party. The day of miserable expedients had passed away, he trusted forever. Let us carry out the principles we have always professed; let us force a resumption wherever we have the power, and leave the results to the country.

As to the State of Ohio, which had so gloriously asserted its independence of bank dictation and bank seduction, we had been informed by one of her Senators, [Mr. Allen] all things had moved smoothly along since the resumption bill had become a law. Indeed, the banks had wisely anticipated its operation. He believed that within the space of sixty days after the resumption of the banks in any State, the people would wonder how they could ever have been deluded by the siren song that resumption would be ruinous to their interests. As soon as confidence was restored, the vast amount of specie which had been hoarded everywhere by cautious and prudent people would again make its appearance, and thus the banks themselves would be sustained.

In what he had said, and it was not his intention to add any thing more, he did not wish to be understood as casting any imputation upon the private character of any of the bankers in this District. Far from it. A system of bank morality seemed to be established everywhere throughout the country, which, if applied to individuals, these bankers themselves would loudly condemn. It was the nature of the calling rather than the nature of the man which made self interest the pole star of the conduct of the bankers. In regard to the President of the Bank of the

Metropolis, he would say that he had known him long and known him well, and he believed him to be as sound in his principles of private conduct as he was correct in his deportment of a gentleman of the old school.

He hoped that all his political friends, by their votes and by their voices, would sustain the cause of immediate resumption. The Whigs would be only acting upon their principles in voting for continued suspension. Let us make up the issue between the two parties, and leave the result to the country.

REMARKS, MARCH 21, 1842,

ON REMOVALS FROM OFFICE.[1]

Mr. Buchanan said that, sometime during the extra session, upon his motion as amended by the Senator from North Carolina, a resolution was passed asking the President of the United States to communicate to Congress a list of all the removals and appointments of all public officers made since the fourth of March of last year; and if he were not mistaken, it comprehended the whole period since the commencement of General Jackson's administration. That resolution had never been complied with, he believed, for he had heard nothing about it since. It was not his intention, however, to offer another resolution upon the subject at present, but merely to allude to the circumstance, and to express the hope that that resolution would be answered at some convenient season.

REMARKS, MARCH 23, 1842,

ON THE TAXATION BY THE STATES OF CERTAIN LANDS.[2]

The Senate had before it the bill declaring the assent of Congress to the State of Illinois to impose a tax upon all lands heretofore sold by the United States in that State, from and after the time of such sale.

Mr. Buchanan said that under the compact which existed between the individual States, (with the exception of Arkansas and Michigan,) and the General Government, it was agreed that

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 341.
[2] Cong. Globe, 27 Cong. 2 Sess. XI. 347.

such lands as were sold within the respective States by the General Government, should be relieved from taxation for five years after such sale. He believed it was perfectly within the power of the States, so far as the constitutionality of the question was concerned, to act as they might think proper; but he very much doubted the policy of the imposition of such a tax, and were he a citizen of the State of Illinois, he would hesitate before he recommended any such proceedings. He would, however, under the present circumstances, cheerfully give his consent to the exercise of their discretion in relation to the whole matter. That State was, it was well known, very much in debt, and was, no doubt, anxious to pay that debt; and if the citizens of that State believed it to be for their benefit to tax those lands, so far as his vote was concerned, they should be permitted to do so.

REMARKS, APRIL 7, 1842,

ON THE LOAN BILL.[1]

On the amendment to the loan bill proposed by Mr. Walker of Mississippi, pledging and appropriating the proceeds of the sales of the public lands towards the payment of the accruing interest and the principal of the public debt—

Mr. Buchanan said he had no intention of making a regular speech upon this subject; much less did he intend to travel over the ground which had been so often trodden by other Senators. It was merely his purpose to suggest some considerations which had contributed to produce a strong conviction upon his own mind that the amendment proposed by the Senator from Mississippi [Mr. Walker] ought to prevail.

Sir, said Mr. B., I shall not discuss the interminable, the everlasting constitutional question as to whether Congress possess the power to distribute the proceeds of the public lands among the several States. I shall leave this question where it has been left by those who have so often and so ably argued it. Neither shall I discuss the question, whether the proceeds of the sales of these lands have or have not yet refunded to the public Treasury the amount which they have cost this Government in their purchase. And above all, I shall not discuss the question whether, if the United States were suable in a court of equity, the several

[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 265–269.

States might not claim and recover, on principles of strict right, their respective portions of this land fund. Such a claim would appear to me to be absurd, had it not received the sanction of very respectable names. Sir, this is the doctrine of my Whig friends on this side of the house. It is the doctrine on which they have placed themselves before the country. I should be exceedingly glad to see the bill in equity which the Senators from Indiana and Connecticut, [Messrs. Smith and Huntington,] who are both good lawyers, would prepare against the United States, to enforce the claim of their respective States. It would be a great curiosity. Its foundation must necessarily rest upon that clause in the Constitution which confers upon Congress the power "*to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.*" This is their only title to the proceeds of that vast domain—sufficiently extensive to be the seat of empires—between the Mississippi and the Pacific ocean.

It is the only foundation for any claim on the part of the States to the proceeds of the lands in Florida, or in Louisiana on this side of the Mississippi.

Congress then possess the sovereign power "to dispose of" all this territory according to their discretion. This power is unlimited in terms; and the proceeds of these lands may be applied to any purpose whatever, within the range of the Constitution. And yet Senators seriously contend, that as a question of strict right, Congress is bound to apply this money to a single purpose; and that, too, wholly disconnected from the administration of the Federal Government, and distribute it among the several States. The bill in equity must state that Congress have the power without limitation to dispose of these lands according to their pleasure; and that, therefore, they have no discretion over them whatever, but are compelled to give them away to the States! Is not this a palpable absurdity? But I promised that I would not argue this question.

In what I may further say upon the subject, I shall assume, for the purpose of my present argument, that Congress may or may not, according to their discretion, grant the proceeds of these lands to the several States. The important question then remains, whether, as patriots and as statesmen, we ought to alienate forever from the use of the Federal Government, this vast fund which has been purchased by the blood and the treasure of our forefathers.

I shall contend, in the first place, that upon general and permanent principles of public policy, applicable to the past as well as to the future, applicable to all times and to all circumstances, we ought to preserve this fund in our own hands to enable us to perform those high duties to all the States which have been entrusted to Congress by the Constitution.

Sir, ours is a great nation, destined, I trust, to endure for ages. We ought to adapt our permanent policy, not merely to the present fleeting moment of temporary embarrassment and distress among the States;—not merely even to the present generation. "Nations unborn and ages yet behind" may deplore the decision of the present Congress on this most important question. We have already experienced the vicissitudes of peace and war; and in the natural course of events we are destined again and again to be engaged in hostilities with the other nations of the earth. Upon this Government alone is imposed the solemn and responsible duty of defending the country against all its enemies, foreign and domestic, in all future time. In order to accomplish this purpose, the people of the several States have conferred upon Congress the constitutional power to raise and support armies, to provide and maintain a navy, and to call the militia of the several States into actual service. It is the imperative duty of this Government to erect fortifications, and to place the country in such an attitude as to resist the attacks of foreign nations, to protect its own citizens abroad and at home, and to maintain that high rank throughout the world to which it is justly entitled. It is in the performance of those high duties that by far the heaviest expenses of any Government are incurred. And what are the practical sources of revenue which Congress can command for the accomplishment of these great purposes? I answer,—give away the land fund, and nothing remains, absolutely nothing, except the duties on imports; and these will fail you at your utmost need.

It is true that Congress possess the power of imposing direct taxes upon the people; but it is equally certain that this power never can be, never ought to be, never will be exerted, unless in cases of necessity which may arise during the existence of actual war. And why not? Senators will recollect that, in this respect, we are wholly unlike the consolidated Governments of Europe. *There,* each nation has but a single Government to support, to which all the sources of revenue are alike open. In this country, besides the General Government, the people have twenty-six

independent State Governments to support. These State Governments can impose no duties upon imports. Their only resort, whether for State or county purposes, must be direct taxation. Many of the States are now compelled to tax their citizens severely; and to impose double direct taxes upon the people of the States at the same time, the one by their respective Legislatures and the other by Congress, is a measure not to be thought of, unless in cases of extreme emergency. And now what do we propose to do, or rather I might say what have we done already? We have squandered away the land fund, diverted it from the purpose of national defence, and given it to the States. Providence, in bounty, has bestowed upon us this invaluable inheritance, —this source of revenue which will be productive when all other sources fail—this resort which will prove a substitute for direct taxation and will place us on the same level in this particular with the other nations of the earth, whose Governments are consolidated: and we are about to cast it away forever. Shall the folly of man render this invaluable gift unavailing for the protection and defence of all the people of all the States? Sir, it does appear to me to be the wildest policy that ever was conceived by wise and prudent and patriotic statesmen.

We possess no permanent and never failing source of revenue, except the public lands. Let us have war with England, for this is the quarter whence it is most to be apprehended, and what will become of your duties on imports? Your foreign trade from which these duties arise will be destroyed by her naval power, and you must carry on the war almost exclusively by borrowing money. You will then have nothing to pledge for the payment of the interest and the redemption of the principal of these loans; and you will obtain them with great difficulty, and at ruinous rates. Preserve the land fund; and you have a certain income at present of three millions of dollars per annum, which will continue to increase as the country advances in wealth and population. Possessed of such a fund, you may always command money to defend the interest and honor of the nation against a foreign enemy.

It is vain to say that the distribution law will suspend itself in the event of war. It does so, it is true; but this merely from the commencement to the conclusion of hostilities. As soon as actual war ceases, the land fund will return again to the coffers of the States; and you are left without any means of discharging the debt which you have contracted during the war, or the interest

accruing upon it, except simply those derived from foreign commerce. This will be a precarious and uncertain resource. It can never be relied upon in future, as it could be after the close of the late war. And I rejoice that such is the fact. Our domestic manufactures have already taken such deep root in the soil of our country, that they will gradually and surely spread themselves over the land, and to a great extent take the place of foreign manufactures.

Suppose, whilst the debt of one war is pressing upon us, you should be driven into another, with nothing but foreign commerce to furnish the means of its prosecution; what would then be your condition? I shall not pursue this painful inquiry further.

But, sir, you will resume the income from this fund with the utmost difficulty, even during the actual existence of war, although the amount which will accrue during that period can be but of comparatively small importance. If the doctrine proclaimed by my Whig friends on this side of the house should prevail; if the proceeds of the public lands be the property of the States, and could be recovered as such, if there were any court in existence competent to try the cause—why should these States be deprived of this fund in time of war? They will then need it more than in time of peace; and you will soon find them successfully asserting their claim to it, even during the continuance of the war.

In considering this most important subject, we should not confine our view merely to the present moment, and to the fleeting interests and embarrassments of the day. As patriots and as statesmen, we ought to look into futurity, and we shall then see that if we now give away the land fund, which is our only certain source of revenue; from the very nature of things, the customs must fail us when we require them most. Now is the time to strike for the restoration of this land fund, or never. If the States should begin to receive their portions of the money, and regulate their legislative policy accordingly, the fund is lost to us forever. They will cling to it with the grasp of fate.

But, in the second place, I contend that, as a mere matter of dollars and cents, so far as the States are directly interested in the question, it will be far more advantageous to them that the United States should retain possession of this fund. And here let me present the question to you as it might occur, and most probably would occur. The States are in the semi-annual receipt of the income from the public lands,—they have passed

laws providing for its appropriation to certain State objects, and the money is in the course of application to these purposes; a war then commences, and what is their condition? At the very moment when their necessities are the greatest, they find themselves suddenly deprived of this income which they had been lavishly expending. What then becomes inevitable? A resort to additional direct taxation on their part to supply the place of a fund which had been thrust upon them in the days of comparative prosperity, when it could be of but little service, and which is now suddenly wrested from them in the day of necessity and danger. In addition to these accumulated direct taxes, their people must then submit to heavy direct taxation by the General Government, rendered inevitable by this very gift of the proceeds of the public lands to the States forever, except during the actual existence of war. Besides, if we may judge from the manner in which several of the States have squandered their proportion of the surplus revenue received from this Government, their income from the public lands will do them but little good. "Come easy, go easy," is a maxim as true as it is homely: and in some instances at least, the States have been stimulated by this surplus revenue to embark in new and unprofitable schemes of internal improvement which have greatly increased their debt beyond what it would have been had they never received a dollar from the General Government.

In a broad and expanded view, I have no doubt it is directly hostile to the interest of the States themselves to withdraw this fund from the General Government. It is their true interest that this Government should possess all the means necessary for the defence and protection of all the States. It must be the bulwark between them and danger. The avenging arm of their common Government ought never to be palsied by their avarice, or by their desire to seize a fund which is necessary for the safety and glory of the confederated nation.

The Legislature of Pennsylvania—and I am sorry to say that this State, like several of her sisters, is largely in debt—has not thought proper to provide for the appointment of an agent to receive its dividend under the distribution law. It has adjourned without taking any action on the subject. So strong is the feeling of the country against this law, that several of the States have positively refused to accept the gift. Public opinion has spoken, and will yet speak, in tones of thunder against Congress, whose duty it is to maintain the rights and protect the

interests of all the States, for having parted with the means which are indispensably necessary to enable them to accomplish these great national objects.

But, again, in the third place, I would suggest that the peace and harmony of the several States composing this Union require that the General Government should retain the proceeds of the public lands; and this consideration is superior to all the mere pecuniary interests which can be brought to bear upon the question. What is the condition of the new States? This Government has ever been to them a liberal and a bountiful parent. Although they may sometimes have been discontented and dissatisfied, yet, in the main, they have been willing to acknowledge that we have done them liberal justice. But if we give away the proceeds of the public lands within their limits to all the States, what will be the inevitable consequence? The Senators and Representatives of the old States will be more or less than men if they do not watch, with the jealousy inspired by a direct personal interest, every grant of land to the new States, dictated by the enlarged, liberal, and successful policy which we have hitherto pursued. Could a Senator or Representative from Pennsylvania ever forget, in voting upon any grant of land, that every thousand acres granted would withhold from the Treasury of his own State one hundred and twenty-five dollars? Under the influence of this feeling, our present liberal and enlarged policy will be converted into one selfish and strict. In a few years, such a course will produce extreme dissatisfaction and discontent throughout the new States; and their people will begin to assert the claim which they have already more than hinted at on this floor, that the whole of the land within their limits belongs to themselves by virtue of their sovereignty. This would become one of the most dangerous questions which has ever agitated the nation, and might involve it in civil war. Now whilst these States are satisfied with the present system, and are freely paying into the national Treasury three millions of dollars per annum for the support of the Government of all the States, ought we, rashly and against their consent, to change this wise policy? I think not. If we drive them to exasperation, we may possibly, however unjustly, lose the whole in attempting to grasp too much. They have now become accustomed to the old land system, which contains within itself a wise restraint upon them, if this be necessary. In the course of time, States, as well as men, grow old. Ohio is now an old State in feeling as well as

interest. Nearly all the valuable lands within her limits have already been sold. Indiana is rapidly advancing to the same position. The existing new States are all becoming old, and will, in conjunction with the old thirteen, exercise a salutary influence upon their still younger sisters in preventing them from adopting any course which would disturb the harmony of the Union or change the wise principles under which the new States have been settled from the beginning. Our present land system is a glorious system. Its value has been tested by long experience. To abandon it rashly, after long years of signal success, for a new and untried experiment, would, in my humble judgment, be almost suicidal.

These are the general reasons why I should oppose the distribution of the proceeds of the public lands among the several States, even if the pecuniary difficulties in which the country is now involved had no existence. In our present embarrassed condition, however, it does appear to me to be the strangest and most unaccountable policy that was ever conceived by mortal man to abandon this source of revenue. This is my fourth suggestion. Now, sir, I have made some poor calculations, in my own humble manner, in regard to the present condition of the Treasury. These I shall not trouble the Senate with, as the ingenuous and able statement of a much higher authority than myself, (I refer to the chairman of the Committee on Finance, Mr. Evans) has furnished me with every necessary fact. Although I do not agree with him in every particular, yet for the purpose of the present argument, I shall assume his statements to be entirely correct. Then what is the financial condition of the country—the condition to which it has been reduced in little more than one short year, by my Whig friends, who have had the control of public affairs since the 4th day of March, 1841? It is now admitted—indeed, it cannot be denied—that the extravagant and profligate administration of Mr. Van Buren, of which we heard so much in the campaign of 1840, left a debt upon the country of only $5,600,000. I speak without regarding fractions. This is the whole amount. It commenced at forty millions, according to Whig arithmetic, then sunk to thirty, and to fourteen millions, and has been gradually sinking since, until it has now found a resting place at five millions and a half. I shall not refer to official reports, or point to figures to establish the fact. This has been done already over and over again by others, and the result has not been and cannot be denied.

What will be the amount of the public debt on the 31st day of December, 1842, after twenty-two months of Whig rule, if nothing should be done to arrest its progress, according to the admission of the chairman of the Committee on Finance himself? I answer, $21,000,000 in round numbers, without regarding the additional fraction. Then deduct the debt of $5,600,000 left by Mr. Van Buren from the sum of $21,000,000, the whole amount of the estimated debt at the end of the present year, and the remainder, $15,400,000, is the additional debt which the Whigs will have contracted within the short period of twenty-two months. It will not do to say that there were outstanding appropriations unsatisfied at the end of Mr. Van Buren's administration which would swell his debt to more than five millions and a half; because from the very nature of expenditures at the Treasury, this always has been and must ever be the case; and the amount of outstanding appropriations will be greater on the 31st December, 1842, when the debt will be increased to the alarming sum of $21,000,000, than they were on the 4th March, 1841.

Then, sir, we have an increase of debt, during the short period of Whig power, of fifteen millions and a half! It really hurts my feelings to make this statement of facts involving the inconsistency of my Whig friends on this side of the House. [Cries of, Go on, go on.] What has become of the measures of retrenchment and reform promised so often and so loudly by gentlemen before they got into power? The answer is furnished by the lucid statement of one of their own most distinguished friends—the Senator from Maine, [Mr. Evans.] He has given us calculations and statements in figures; and we all know that figures cannot lie. He thinks that the estimates of the Secretary of the Treasury for the present year may be reduced two millions of dollars; and in that event, the debt at the close of it may be reduced to $19,000,000. But is such a reduction to be expected? From the experience we have had, I should say that I do not entertain the least hope of any such result. We have yet witnessed no instance of retrenchment and reform, and I shall venture to prophesy that at the close of the present year, unless additional duties should in the mean time be imposed upon imports, the national debt, instead of being $21,000,000, will amount to twenty-three or twenty-four millions. I shall not at present occupy the time of the Senate in stating at large my reasons for this belief.

The estimates furnished by the Secretary of the Treasury of the expenditures of the present year amount to $25,971,010.78; and this sum merely embraces the ordinary expenses to be incurred by the different departments of the Government. It embraces nothing else, and could not with propriety embrace any thing else. There is no estimate for the amount which Congress may appropriate during the present session in satisfaction of private claims; and this will be considerable. We have already appropriated, and will doubtless hereafter appropriate, large sums to public objects which are not embraced in the estimates. This has ever been the case. I believe that instead of a reduction of two millions from the estimated expenditures, the actual expenditure will considerably exceed twenty-five millions and three quarters—the sum stated by the Secretary.

This, then, is our financial condition, according to the Senator from Maine. The current income of the present year from the customs, according to the same high authority, will amount to only thirteen millions and a half of dollars; whilst it has been shown that our expenditures will nearly double that amount; and we shall commence the new year, on the 1st of January, 1843, encumbered with a debt of twenty-one millions of dollars. This is the deplorable condition to which we have already been reduced; and this is the gloomy prospect before us. What a strange argument does this present for giving away, at this critical moment, our land revenue to the States! I could not help feeling, throughout the whole course of the Senator's remarks, that he was urging the very strongest reasons in favor of restoring this fund to the General Government. Now, sir, is it not the most extraordinary fact, viewed as an isolated proposition, which has ever occurred in the history of any nation, that Whig Senators should so pertinaciously resist the restoration of the land fund in the present deplorable condition of the country? They themselves have undoubtedly created this condition to a great extent. So far as it regards the extravagant expenses of the extra session, which was wholly unnecessary, they are exclusively responsible. And yet they still insist that the proceeds of the public lands, which are absolutely necessary to discharge the debts of their own creation, shall not be applied to that purpose, but shall be given away to the States. Nothing could render the decision of the question at all doubtful, were it not for the extraordinary genius and extraordinary influence of that extraordinary man who has recently retired from the Senate, [Mr. Clay.] It was a favorite measure

of his, with which he seemed to identify his fate and his fortune; and no matter what may be the necessities of the country, the distribution law must, therefore, not be touched. His mantle has descended upon his successor.

The Whig party has succeeded a thrifty old gentleman in the management of a trust estate, who had always used the utmost prudence and economy in his expenditures; but who, from unforeseen causes, which he could neither avoid nor control, was compelled to leave it encumbered with a debt of five millions and a half of dollars. Before the new trustee came into possession of the estate, he made fair promises, boasted much of his management and economy, and induced more than half of the real owners to believe that he would discharge the existing encumbrance by lopping off useless expenditures, and set up housekeeping in an economical and frugal manner. But what has been the disappointment of those beneficially interested, who turned out their former careful steward, and substituted for him the present extravagant spendthrift!

Elated with his acquisition, exulting in his power, and wishing to dazzle and astonish the world, he has set up a most magnificent establishment, drives his carriage and four, and has launched into every fashionable extravagance, and all at their expense. His course of conduct has been in perfect contrast with that of his predecessor; and in a very short space of time he has increased the encumbrance on the estate from five millions and a half to twenty-one millions of dollars. His credit is gone on "'change," and, like other spendthrifts, his notes are selling in the market at a considerable discount. In this condition, he stoutly insists that he will give away to his children, without any consideration whatever, one of the most valuable portions of the estate which he holds merely in trust for others, and that portion which can alone be depended upon, under all circumstances, for a permanent revenue; whilst he refuses to pay his honest creditors who trusted him on the security of this very fund.

Now, permit me to ask the Senator from Indiana [Mr. Smith] what would the common law decide in a case where the debtor has given away to his children the property which ought to have been applied to the payment of his debts? Would not such a transaction be considered fraudulent as against creditors? If the United States were suable, the Senator would have a much better chance of setting aside such a fraudulent conveyance in a court of equity in favor of honest creditors, than of recovering

for the several States their distributive portions of the public lands. The rule of common law, as well as the rule of common honesty, is that every one must be just before he can be generous. At a time, then, when we have a heavy debt to pay, and when the country ought to be placed in an attitude of defence, we ought not to squander away this bountiful source of revenue, even if it were proper to do so under other circumstances.

When, in addition to all these considerations, we contemplate the present lowering aspect of our foreign relations, it does appear to me, with all proper respect for my Whig friends, to be the extreme of madness and folly to give away such an important portion of our revenue. I desire to excite no unnecessary alarm in regard to the present posture of our affairs with England. I know nothing of the existing state of the negotiation, except what may be known to every man in the country. When I occupied the station of chairman of the Committee on Foreign Relations, now so worthily filled by the Senator from Virginia, [Mr. Rives,] I had access to information which would then have given my opinions some weight. The case, however, is now far different. Still I cannot refrain from expressing the opinion, that there is serious danger of war; at all events, I consider the chances of peace and war to be about equal. To be sure, it would be an act of folly unsurpassed for the two nations to plunge into war; but yet, no prudent nation placed in the position in which we now stand, ought to neglect the duty of providing at least for the important defences of the country. And, yet, whilst danger is staring us in the face, we propose to give away the very sinews of war, the very means of self-defence.

I hope the Senate will pardon me for a word of digression. Thanks to the all-pervading arrogance and injustice of England, each portion of our Union has now a separate just cause of quarrel against that nation peculiarly calculated to arouse its feelings of indignation. We have the Northeastern boundary question, the Caroline question, the Creole question, the Northwestern boundary question, and, above all, the right of search. Should we be forced into war in the present state of the controversy, we shall be a united people, and the war will be conducted with all our energies, physical and moral. In the present attitude of our affairs, I say, then, *let us settle all of these questions, or none. All, or none, ought to be our motto.* If we must go to war, we could not desire a more favorable state of the questions than exists at present between the two nations. If all these questions

except one should be adjusted, we shall be in as much danger of war from the single one which may remain, as we are at present; whilst we would incur the risk of destroying that union and harmony among the people of this country, which is the surest presage of success and victory. On all the questions in dispute between the two nations, except the right of search, I would concede much to avoid war and to restore our friendly relations, provided they can all be adjusted. It is my firm conviction that it is due to this country—due to its tranquillity and prosperity, that all these questions should be settled together. *All, or none,* I again repeat. Without this, you weaken your own strength—you play into the hand of your adversary—you destroy to some extent the unanimity of your people;—and, when at last you may be compelled to go to war, you will commence the contest with divided counsels and interests. I trust and hope that all these agitating questions may be settled. I should gladly review each one of them, but I feel that at the present moment it would be discourteous towards the distinguished stranger (Lord Ashburton) whom England has deputed to negotiate upon them. I would not say a word which could by possibility interfere with the negotiation. I hope he has come amongst us bearing the olive branch of honorable peace. If he has, there is no man in this country more ready to welcome his arrival than myself. But in the present position of our public affairs, I must ever protest against parting with any portion of our revenue when our country may so soon require it all for defence against the most formidable nation on the earth. I think, if I were, what I feel sure I never shall be, a good Whig, I would say, take the land by all means; with it provide for the defence of the country, and when the danger is over, we shall again resume the fund.

Some of the advocates of a high protective tariff throughout the country desire that we should give away the lands in order to create the necessity for imposing higher duties on imports. Sir, I am not in favor of a high protective tariff. I am not in favor of raising more revenue from imports than is necessary to support the Administration of the Government, and gradually extinguish the existing debt. In raising this revenue, however, I would make, so far as my vote or my voice may have any influence, a discrimination—a moderate and just discrimination, in favor of the great interests of the country—its agriculture, its manufactures and its commerce. I do not wish now to anticipate what I intend to say upon the tariff question; but thus much I

shall declare, that in raising revenue, I would afford incidental encouragement and protection to those great interests which will render us independent of foreign nations for articles of indispensable necessity, both in peace and in war. To impose a tariff merely for the sake of protection—to make this the principal instead of the incident, would, in my opinion, not only be unwise, but might be destructive to the very interests sought to be protected. I hope, ere long, to have an opportunity of expressing my opinions at length upon this important subject.

At an early stage of the present session, I ventured to predict that the tariff question, if left to itself, would settle itself before the close of it. I am now more firmly convinced of the truth of the prediction than ever. The advocates of the highest protection need not fear but that a necessity will exist for a rate of revenue duty high enough even to satisfy them, and this without giving away the land fund. Under the existing laws, our current revenue for the present year will be only about thirteen millions and a half of dollars; whilst our current expenses will nearly double that amount; and beside this, we shall have a debt to pay of twenty-one millions of dollars. The Senate has, moreover, unanimously adopted a resolution declaring "that it is the duty of the General Government, for conducting its administration, to provide an adequate revenue within the year to meet the current expenses of the year; and that any expedient, either by loan or by Treasury notes, to supply, in time of peace, a deficiency of revenue, especially during successive years, is unwise, and must lead to pernicious consequences."

It will be found that to raise sufficient revenue to meet the expenses of the present Administration, it will be necessary to impose revenue duties more than sufficient to satisfy any reasonable advocate of protection. The manufacturers will thus have more protection than they require, even if the land fund, estimated at three millions per annum, should be restored to the General Government, which I think it ought to be on every principle of public policy.

But, sir, it has been urged that this loan bill is a most improper measure to which to attach such an amendment as that proposed by the Senator from Mississippi. Now, I shall endeavor to prove, in the last place, that it is peculiarly proper to attach this amendment to the present bill; because you will thus obtain your loan upon much better terms for the Government than you can procure it in any other manner. It has been said, and said

with truth, that the distribution law provides for its own suspension whenever the duty imposed upon any imported article shall exceed twenty per cent. The distribution of the land fund to the States will then cease, and never revive whilst there shall be a higher duty than this levied upon any article. My friends on this side of the house say, it is better to wait and let the fund be restored to the General Government under the terms of the act which transferred it to the States. We all believe that it must thus be restored; because we must all admit that the necessities of the Treasury require an increase of duties considerably above twenty per cent. None of us shall probably ever live to see the day when the duty upon many articles will not necessarily exceed this rate. The land fund will then be restored to the General Government the moment we impose a higher duty than twenty per cent.; and why should we not now anticipate the time of its restoration by a few weeks, for the purpose of using it wisely in obtaining a loan on favorable terms for the benefit of the Government?

I believe, in my soul, that, even at the present moment of distress, you can borrow the eleven millions at par proposed by this bill, provided you will adopt the amendment. This amendment is not a mere general pledge of the public lands for the redemption of the debt; but it is a specific appropriation of the proceeds arising from these lands to pay the interest as it accrues, and finally to discharge the principal. Now, a better security than this no man on earth could desire. The fund is ample for the purpose; and nothing can ever render the security doubtful, except a deliberate violation of the public faith in the face of the world on the part of the Senate, the House of Representatives, and the President. The two Houses of Congress and the President must concur in dishonoring themselves by passing an act withdrawing this fund from the public creditor on the solemn assurance of which he had loaned his money to the Government, or the security must remain the best in the world. Such an event is not possible. Nothing but the destruction of the Government itself can impair such a security. Would not, then, any prudent capitalist be willing to lend his money upon better terms on the pledge of such a security, than upon the mere general faith of the Government? My friend, the Senator from Indiana, [Mr. Smith,] declares that such an appropriation by Congress, of an ample specific fund for the payment of the principal and interest of the public debt would be too confined, and that the broad

pledge of the general faith of the Government would cover all, and be preferred by the capitalist. I do not consider it necessary to answer this argument. The lender would have this general faith pledged as well as the specific fund. He would enjoy the benefit of both. But even if this were not the case, you may rest assured that the capitalist will think differently from the Senator. What has been the course of the indebted States, and what has brought some of them to their present deplorable condition? They omitted in the beginning, when they borrowed money, to provide and set apart a fund for the payment of the interest and the extinguishment of the principal. I am myself the holder of a little State loan, (not of my own State,) for which I paid the full par value; and although I have the general faith of the State pledged to me in the most solemn manner on the face of the certificates, yet I should gladly accept half the amount in full satisfaction, provided its Legislature would secure the payment of the principal and interest of this half, by imposing the necessary taxes and pledging them for that specific purpose. This ought to have been done by all the States in the beginning; and it was the violation of this wise maxim of political economy, that has caused some of the States of this Union to contract debts which they are unable to pay, and has sunk them into their present deplorable condition.

The Senator from Indiana has informed us that England began with pledging the proceeds of particular taxes to the public creditors, but that she has long since abandoned the practice, and now pledges her general faith alone. The fact is that England never made such a pledge and appropriation of any fund for this purpose as that proposed by the Senator from Mississippi; never. And she is now so much involved in debt, that to pledge specific funds in favor of any portion of her creditors, would be injustice to the rest, and would prostrate her general credit. It would be perfectly ridiculous, as well as suicidal. She is pressed down by a mountain load of debt, and it is her untarnished credit alone which enables her to sustain it. The moment this begins to totter, her empire is at an end. Our condition is far different. We shall, I trust, borrow no more money in time of peace, except that which shall be borrowed under the provisions of the present bill. We can, therefore, appropriate the land fund for its redemption, without doing an injury to any human being. We can even afford to omit the payment of the interest on our Treasury notes punctually, how-

ever disgraceful, as has been done for the first time in our history by the present Administration, without creating any distrust in regard to our eventual solvency. But when we desire, under such circumstances, to obtain new loans, whilst we refuse to adopt the amendment proposed, the capitalist will look on with some degree of suspicion, and will ask a higher premium to cover the risk arising from your want of punctuality. He sees that you have provided no means to pay the interest on your Treasury notes—that you are rushing on in a mad career of extravagance, expending twenty-six millions annually, without having provided a permanent revenue for the present year of more than thirteen millions and a half, and that you are pursuing the downward course which has already brought several of the States to ruin. Although I feel the fullest confidence that every debt which we shall contract will be paid to the last farthing, yet capitalists are a wary and calculating race, and it is ridiculous to suppose that they will lend you money upon as favorable terms upon the pledge of your general faith merely, as if an ample fund were appropriated by the bill creating the loan, which would render the punctual payment of the interest, and the redemption of the principal, absolutely certain. The truth is, you cannot obtain the money on favorable terms in any other manner.

A few words more, Mr. President, and I shall close these desultory remarks, which have already been extended far beyond what I had anticipated. I am exceedingly anxious to vote for this bill. The measure must be an odious one, indeed, which can induce me to vote in the negative when the object is to redeem the Government from its present disgraceful insolvency. I well know that the American people are willing to pay their debts, cost what it may. Besides, they are anxious that reasonable appropriations should be made to place the country in a state of defence. But if the Whigs will force it upon me to vote for or against the bill, with all its present odious features; in common with other Democratic Senators, I shall take the responsibility of voting in the negative. They may, as they doubtless will, pass it by their own votes.

I shall not follow the Senator from New York, [Mr. Wright,] who has so ably and clearly presented in detail the objections to this bill. I must be permitted, however, to advert to one of them, which, if not removed by an amendment, will be conclusive against its receiving my support. A six per cent. loan, the payment of which may be postponed for twenty years, is to be sold

in the market for any price which it will bring! This is the nature of the bill. There is but one precedent on our records, we are told by the Senator from Maine, [Mr. Evans,] which bears any resemblance to the present case, and this occurred in the year 1798, and in the days of John Adams. Unlimited discretion was given to him to borrow five millions of money upon such terms and conditions as he pleased, and he obtained it at the rate of eight per cent. per annum. The Senate will recollect that when this loan was effected the Government had been in existence but nine years, and it was encumbered with almost the whole funded debt of the Revolutionary war. But now, after it has been in existence more than half a century, and after we have faithfully discharged the debt both of the Revolution and the late war, we are asked to sell our credit at any price it will command, without any limit whatever to the depreciation. I am not yet prepared to humble our proud credit in the dust by sending the Secretary of the Treasury abroad to hawk it for any thing it will bring in the market. No, sir, not yet. I feel confident that the pledge and appropriation proposed by the Senator from Mississippi will, within a short period, command the whole eleven millions of dollars, at six per cent. But if you discredit yourself, by declaring on the face of the law that you will sell this loan at any price it will bring, what will be the inevitable consequence? Sir, a small number of great capitalists control the moneyed interests of the world. The Astors, the Rothschilds, and the Barings are not numerous. A combination of these capitalists can be and will be easily formed, who, knowing that we must have the money on any terms, will obtain the loan at such a price as will be to them the best speculation in the world, but to you it will be disgraceful. Now, although I am most anxious to provide for the present wants of the Treasury, I cannot vote for the measure unless you will return the land fund to its legitimate purposes, and limit the Secretary of the Treasury to a maximum rate of interest, at which he must obtain the loan at par. This is the only mode by which you can secure yourselves against a combination of capitalists and speculators, who will otherwise depreciate your credit to the lowest possible point.

I am willing to fix this maximum as high as seven per cent., if you think proper, for such a portion of the loan, redeemable within a short period, as may be necessary for the immediate and pressing wants of the Treasury, and we can then go to Europe for the remainder. We learn from the last advices that

money is now plenty in England; and I have no doubt our six per cent. loan would command par there, if you will render its repayment certain and inevitable in the manner proposed by the Senator from Mississippi. But to render assurance doubly sure, I would even consent that the Secretary should give seven per cent. for the whole loan, if the money cannot be procured at a lower rate. If, therefore, my voice had any influence here, I would entreat those gentlemen who look forward with pleasure to the restoration of the land fund to this Government when the rate of duties shall exceed twenty per cent. now to come forward in advance of that time and relieve the country from embarrassment. I ask them to appropriate this fund in the manner proposed and obtain the loan on such terms as will not dishonor and disgrace the country.

I feel our present disgrace as deeply as any Senator on this floor. It has been said by high authority that we have a President without a party, and parties without a President. But we are all embarked in the same noble vessel, which proudly bears the stars and stripes at its mast head, and we are all equally bound to take care that the glorious flag of our country shall not be disgraced. We are all equally responsible for the preservation of our credit and our character. These will be our surest resource, should war become inevitable.

Take back the land fund—pass this bill in the manner which I have proposed—and should we prove to be mistaken in the result, I for one will pledge myself to give any rate of interest which may be necessary to redeem the faith of the nation. But whilst, by the terms of this bill, the loan is to be thrown into the market, to be sold for what it will bring, and the land fund to be left in its present condition, disagreeable and mortifying as it may be to me, I shall take the responsibility of voting against it. The majority can and will carry it in its present form; but, under such circumstances, they cannot and ought not to expect our support.

REMARKS, APRIL 8, 1842,

ON THE LOAN BILL.[1]

In reply to the remarks of Mr. Archer, of Virginia, and Mr. Crittenden, of Kentucky, on Mr. Walker's amendment to the loan bill—

Mr. Buchanan said, he had wished to obtain the floor immediately after the Senator from Kentucky [Mr. Crittenden] had taken his seat, and to express his pleasure that he had once more heard the crack of the Kentucky rifle. The Senator and himself had had many tilts with each other, and it was more than probable they might have many more; but, although he had found him "a troublesome customer," he cordially welcomed him back to the Senate.

He was not sorry, however, that the Senator from Virginia [Mr. Archer] had obtained the floor from him; because this would save him the necessity of speaking twice. He should now reply to some observations of that gentleman, and discharge, so far as he could, the debt which he felt he owed him. And, first, he should notice some very harsh remarks of that Senator which he (Mr. B.) could not have anticipated.

Mr. Archer: Permit me to say that those remarks were made in a legislative character, and ought not to be considered in any other than a friendly light personally. The Senator and myself have been friends for a greater number of years than I should choose to mention, as there are ladies in the gallery; and it was the last thing I intended to give him personal offence.

Mr. Buchanan said that, from their past relations, he felt confident the Senator could not have intended to be personally offensive. He cheerfully accepted his disavowal of any such intention; and would refrain from commenting on some of his observations in the manner which the Senator himself would have been the first to adopt, had he been the subject instead of the author of such remarks. Nevertheless, he would briefly reply to a few of these remarks, before he proceeded to settle his account with the Senator from Kentucky.

Sir, (continued Mr. B.,) the Senator from Virginia is of opinion that this country will be utterly disgraced—that her proud credit will be humbled in the eyes of the world, if we, in our majesty and wealth, should condescend to pledge any fund what-

[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 283–284.

ever to the capitalist who may loan us money. The Senator has, also, informed us that he had only risen to explain the apparent inconsistency of the vote which he gave the other day on this very question, with the vote which he intends to give on the present occasion. This explanation has, in my opinion, been very unfortunate. It may have proved satisfactory to himself, upon the principle asserted by the Senator from Kentucky, that arguments urged by self-love, although very soft in themselves, produce a marvellous effect in convincing their authors. I am but a plain man, and look to facts; and how the Senator has extricated himself from the dilemma in which he is placed, will best appear from reading the resolution itself, for which he did vote but one short week ago.

[Here Mr. Buchanan read one of the resolutions proposed by Mr. Rives as amendments to Mr. Clay's resolutions, as follows:

3. *Resolved, therefore,* That so much of the act entitled, "An act to appropriate the proceeds of the public lands, and to grant pre-emption rights," approved on the 4th day of September, 1841, as appropriates those proceeds [of the public lands] to the States and Territories, and the District of Columbia, ought to be suspended until the national debt already contracted, or which may be contracted, shall have been paid; *and that, in the meantime, the said proceeds be set apart and pledged as a fund for the payment of the interest, and the gradual extinguishment of the principal of such debt.*

Now, sir, can doubt rest upon the true construction of the latter clause of this resolution? The Senator's vote stands recorded in favor of that very pledge which he now denounces as disgraceful to the character of the country. This vote will remain upon our journals long after his explanation, such as it is, shall be forgotten. He is entirely mistaken in supposing that the country would be disgraced by such a pledge.

The Senator says that, at the time he gave the vote in favor of his colleague's resolution, he made a private explanation of his intention. [Mr. Archer: It was a public explanation.] Mr. Buchanan: I was not present, and therefore did not hear the explanation to which he refers. This makes the matter but little better. His public explanation is in direct opposition to his public vote; and he is placed in that predicament in which we sometimes place ourselves from want of attention to the question before us

But the Senator thinks it would disgrace the country and degrade its credit to pledge any particular fund for the payment of the public debt; and yet he lauds the bill before us to the very

skies. Does he not know that this very bill contains a solemn pledge to the public creditor of the duties on foreign imports for the payment of the interest and the ultimate redemption of the principal of the public debt? And what difference, I ask him, can exist, in principle, between a pledge of the land fund and that of the customs? The Senator has pronounced this to be a most admirable bill; and yet he denounces us in the most emphatic terms because we desire to add a further pledge to the public creditor, which will place the practicability of borrowing the money upon favorable terms beyond a question.

The Senator would rather witness the disgrace of our national credit than vote for the bill, if it contained a pledge of the land fund; and yet he pronounces a eulogy upon it, containing, as it does, a specific pledge of the revenue from customs. And because I desire to pledge this land fund, he says my patriotism is always in the perspective—in the clouds—never upon the earth, but figuring about somewhere, I suppose, between the earth and the heavens, or following the erratic course of Phaeton's chariot, about which we have heard so much to-day. I leave the Senator to reconcile his own inconsistencies as he best may, and to decide whether the country would not be more disgraced by hawking our credit about through the purlieus of Wall street for what it will bring in the market, and selling it at eighty or ninety dollars for a hundred, than to pledge the land fund to the public creditor, and thus obtain the money at par.

The Senator from Kentucky [Mr. Crittenden] undertakes to say that I taunted the Whigs. Sir, I am incapable of taunting the Whigs. I stated facts merely, and the taunt was his own inference. How he succeeded in getting over these facts, we shall see presently.

The Senator told us that the Whig party travelled on the broad road. He might have completed the quotation, and said the broad road "that leads to destruction;" but he could have gone no further. He could not have added, "for many there be that walk therein." His company is becoming smaller and smaller every day; and even good old Connecticut has abandoned the broad road, and has filed off into the pleasant ways of Democracy.

I must say, that never was there a party more skilful in adopting the means of its own destruction than the great Whig party has shown itself to be. They have proved to be most able architects of their own ruin. I do not blame them for this—far

from it. My only complaint is, that they should attempt to make us responsible for that which is purely their own work—that they should blame us for the difficulties which exist between them and their own President. It is surely not our fault that, instead of the billing and cooing between them and him which we witnessed at the commencement of the extra session, they should now be at loggerheads. From the course of the Senator's remarks, I really thought that he intended to flog the Senator from Virginia [Mr. Rives] over my back. Why should dear friends act thus towards each other, and disturb the harmony of the great Whig party? It brought forcibly to my recollection a reproving couplet which I heard when a little boy, which must have been a long time ago, according to the late Senator [Mr. Clay]—

"Your little hands were never made
To tear each other's eyes."

The Senator told us that the Whigs in Congress had carried all their measures at the extra session; and that the land distribution bill was a cardinal article of Whig faith. Indeed, for doubting its infallibility, he seemed disposed to read the Senator from Virginia out of the Whig church. But what kind of a land bill did they pass? I ask the Senator, even if his natural life should be extended practically to the age of Methuselah, as he says it has been mentally during the agony of the last year, whether he expects that his State will ever receive a dollar, during that long period, under the provisions of this famous Whig law. The truth is, they wished to pass a bill which would give the money to the States without any condition; but they could not bring their forces up to the work, and they were compelled to accept a measure which held out a promise to the ear, only to be broken to the sense. The law, as it stands, is a complete *felo de se,* and they must have known this at the time of its passage; because no man then doubted but that duties on imports above twenty per cent. must be imposed before the day when the first instalment was to be paid to the States. Why, then, does the Senator refuse to anticipate the self-destruction of this law by a few weeks, and to pledge and appropriate the land fund in such a manner as will enable us to procure our loan on favorable terms, and thus maintain the credit of the country?

The Whig Congress, also, passed the fiscal corporation bill. And what have we been told on this floor by a leading Whig? That the party had degraded themselves by agreeing to adopt this

measure, and that it had been passed not because they thought it right, but because they had reason to believe it would propitiate the President. In this they proved to be mistaken. They did not even get that;—thank Heaven for all its favors!

But there is another measure which they did succeed in passing into a law—namely, the bankrupt bill. Under this the people are now being physicked, and the physic is operating powerfully. I venture to predict that before the Senator shall be one year older, this law will be blotted out from our statute-book, and no memorial be left of its existence, except the public execration, and the long, vexatious, and expensive litigation to which it will give birth.

Sir, all the great Whig measures of the extra session will be swept away, like the baseless fabric of a vision, and nothing remain except the public debt which has been created by the extravagant and unnecessary expenditure of the public money during that session.

But the Senator from Kentucky charges us with having incurred the debt which they are now compelled to provide for. Let us examine this position for a moment. At the last regular session of Mr. Van Buren's administration, which closed on the 3d March, 1841, we provided for all the necessary current expenses of the year. The extra session was not required to supply any wants of the Treasury. And why, then, was Congress convened? It was to pass, in hot haste, what had been called the great system of Whig measures, to which I have adverted. This session cost the people, in appropriations of money, the sum of $5,043,705.02. I speak from the official document now before me. The Senator will scarcely contend that this large sum, every dollar of which we have been compelled to borrow, is justly chargeable to Mr. Van Buren's administration. The Whigs would give worlds, if they had them, could they recall the extra session. Like Job of old, they must often, in bitterness of spirit, curse the day of its birth, and wish that it could be blotted out of the years of their existence. I state an historical fact which cannot be denied, when I say that the country could have got along admirably well, until the regular meeting of Congress in December, 1841, without the intervening extra session.

The Senator from Kentucky asserts that the average expenses of Mr. Van Buren's administration, during the four years of its continuance, amounted to $35,000,000 per annum. His distinguished predecessor, [Mr. Clay,] whose mantle, I trust, has

fallen upon the Senator, admitted—every person of candor, who will examine the documents, must admit—that the average actual expenditures during that period did not exceed $28,000,000. This has been so often demonstrated, that I shall not now take the time to demonstrate it again. The Senator himself will acknowledge his error, as soon as he shall have examined the documents, as his predecessor has done. I admit that $28,000,000 is a large sum, and greatly exceeds what ought to be our ordinary expenditures; but Senators should recollect that the expenses of the late administration were swelled by extraordinary circumstances, over which it could exercise no control. They could not arrest the Florida war, the purchase of Indian lands, nor the removal of the Indians west of the Mississippi, without incurring disgrace and infamy. I might enumerate several other causes of extraordinary expense, if this were necessary. But does not the Senator from Kentucky remember that the very last serious controversy which he and I had upon this floor, arose from a challenge to the Whig Senators, which we proclaimed in the face of the Senate, to point out a single expenditure of Mr. Van Buren's administration which he could have avoided, or a single item of extravagance in the application of the public money to the objects designated by Congress? He accepted the challenge; and what was the result? That some bacon—and possibly eggs, for aught I know—which had been sent into the midst of the Cherokee country to supply the army, when war seemed inevitable, were happily not required for its use, and were sold at public auction, for considerably less than their cost. The mountain was in labor, and out crept this ridiculous mouse. Now, sir, I charge the Whigs with preaching one faith and practising another, with broken pledges and violated promises to the people of this country; and I am not to be deterred from stating facts by any denunciations, however violent. Gentlemen are now driven to the defensive. They are now driven into the position which they compelled us to occupy for four years by their general charges of extravagance against the Democratic administration; and we intend to keep them there. The Senator from Kentucky has made his defence; and what is it?

He says, what could we possibly have done in so short a time to reduce the expenses of the government? We have been in power but one year. But one year, indeed! Much might have been done within this period, and the country expected that much would be done. Within this year a Whig Congress has already

been in session between seven and eight months, and gentlemen have yet done nothing to redeem their pledges. It is true that a Committee on Retrenchment has been appointed by the Senate; but this committee has not yet made a single report. Instead of the promised retrenchment and reform, you have given us an unnecessary extra session; and at it you have increased the debt of the country five millions of dollars.

But the Senator, in defending his party, says that it is well known their President has turned against them, and without his aid they cannot make the promised retrenchments. Indeed! Have not the Whigs a decided majority in both Houses of Congress; and can they not control the expenses of the Government? Can the President expend a single dollar which has not been previously appropriated by Congress? It is no excuse whatever for them thus to cast the blame upon the President.

Has the money appropriated by Congress been applied by the President in any improper or extravagant manner? It may have been so, but I confess this is the first time that I have ever heard it insinuated. The Whig majorities in Congress cannot extricate themselves from their just responsibility, by casting the burden of it upon his shoulders. They can, if they will, repeal every law involving unnecessary expense; they can apply the pruning-knife and lop off every useless branch. They can correct all abuses which may exist. But what have they proposed to do? They propose to spend $26,000,000 per annum, in a time of profound peace, and after the causes of extraordinary expenditure have ceased to exist. To use the language of a distinguished Whig, on another occasion, I ask, "Is this the banquet to which we were invited?"

Sir, I have been reluctantly forced into this debate. What was it that I said, on yesterday, which has drawn upon me the accusation of having taunted the Whigs? I asserted that Mr. Van Buren left a debt of only $5,600,000; and this is admitted by the Senator himself. I also asserted that the Whigs had now been in power but thirteen months, and, according to the admission of the Senator from Maine, [Mr. Evans,] this debt, at the end of the present year, would be increased to $21,000,000, unless they should be able to reduce it, by the retrenchment of expenditures, to $19,000,000. This reduction is all that they even hope, and far more than they will realize.

[Mr. Evans: If we make no provision for raising revenue.]

Mr. Buchanan: Oh, yes! certainly. Let the revenue laws

remain as they are until the close of the year, and the small debt left by Mr. Van Buren will be swelled to the alarming sum of $21,000,000. Now, sir, is it taunting the Whigs to remind them of these facts, and to ask what has become of their promised measures of reform? The Senator may, perhaps, undertake to explain how it is that this alarming debt has been forced upon the country; and why, instead of keeping down the expenditures of the Government within twenty-one millions of dollars, to which they had been reduced at the close of Mr. Van Buren's administration, they now insist upon increasing them to $26,000,000. I shall say nothing at present of the thirteen or fourteen millions of dollars to which they ought to have been reduced, if we were to hold them strictly to the declarations of their leaders during the campaign of 1840. We must judge the conduct of our Whig friends by their often avowed principles and professions; and they must bear with us, without accusing us of taunting them. They have taught us a lesson in this respect, by which we mean to profit. We have long had to bear their taunts; and if they have turned the tables upon themselves, they must learn to hear the truth with patience and philosophy.

$15,400,000 of debt added in thirteen months! If we go on at this rate, the broad road to destruction will not merely be open to the Whig party, but to the whole country.

The Senator says that the time has seemed long to him since the veto upon the Fiscal Bank corporation; and I do not wonder at it. The cares which he must have endured, during this period, were doubtless sufficient to turn his hair gray. We read of a man—in the days of Elizabeth, I think—who went to prison at night with a head of bushy black hair, and came out in the morning as gray as a badger; and all the effect of mental anxiety and terror. I am glad to perceive, however, that the Senator's sufferings have not produced any such effect. He is not more gray than he was; and his step is as elastic, his carriage as erect, and his eloquence as ready, as they were before his misfortunes. But let me say to him that he and his party must assume the responsibility of conducting the Government in its legislative capacity. They may have fallen out with Captain Tyler, but they still have an efficient majority in both Houses of Congress. They hold the purse-strings, and, without their previous consent, not a dollar can be expended. It will be no excuse for them if they do not confine the expenses of the Government within economical limits, to say, " The Executive has abandoned us, and

we can do little or nothing without his aid." As little will it serve their purpose to recriminate upon Mr. Van Buren's administration, when they came into power upon the pledge that they would reduce its expenditures and correct its abuses. By their works, and not by their professions of faith, they must and will be judged by the people.

EULOGY, APRIL 18, 1842,

ON JOSEPH LAWRENCE.[1]

A message was received from the House of Representatives, notifying the Senate of the death of the Honorable Joseph Lawrence, late one of the Representatives from the State of Pennsylvania, and that his funeral would take place to-morrow, at 12 o'clock, and inviting the Senate to attend the same.

The message having been read—

Mr. Buchanan rose and addressed the Senate as follows:

It has become my painful duty, the second time since the commencement of the present session of Congress, to move the adjournment of the Senate, as a token of respect for the memory of a member of the Pennsylvania delegation. Joseph Lawrence departed this life, at his lodgings in this city, yesterday morning, at a little after 11 o'clock, in the 54th year of his age. Of him it may be emphatically said that he died as he had lived, at peace with God and man.

Mr. Lawrence was no common man. His intellect was of a high order, and his mind was stored with useful and practical knowledge. Although he did not enjoy the advantages of a liberal education, he had in a great degree supplied this deficiency by his own industry and reflection. His fellow-citizens, at an early period of his life, became sensible of his worth, and he served nine years as a member of the House of Representatives in the Legislature of his native State. During four sessions of this period, he was elevated, by the confidence and regard of his fellow members, to the distinguished station of Speaker of the House. He was afterwards transferred by the same constituents to the councils of the nation, and served as a member of the House of Representatives during the 19th and 20th Congresses. At a subsequent period he was elected by the Legislature of Pennsyl-

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 431.

vania Treasurer of the State, and during one year discharged the duties of that responsible office entirely to the public satisfaction. He was finally elected to the present Congress, where he was destined to close his earthly career.

Mr. Lawrence was not a frequent debater; but when he chose to speak, his efforts were always marked by good sense, sound argument, and a thorough knowledge of his subject; and he always commanded the attention of his audience. Whilst he maintained his own opinions firmly, his heart was the seat of kindness and benevolence; and therefore he was tolerant of the opinions of others. He discharged all the relative duties of life, in a most exemplary manner. He was a most affectionate husband, a kind father, and a devoted friend.

He was a practical farmer all his days, and never pursued any other occupation. In this most useful and honorable employment, calculated above all others to inspire the mind with elevated and ennobling thoughts, he early ascended from the works of nature by which he was surrounded to Nature's God. He was a sincere and devoted but tolerant Christian, and he was not deserted in the last hour of his existence by the Being in whom he had confided. He met his fate with calmness and resignation, and passed through the dark valley of the shadow of death leaning on the arm of his Redeemer. In contemplating such a life and such a death, well may each one of us exclaim with Balaam of old, "Let me die the death of the righteous, and let my last end be like his."

Mr. B. concluded by offering the following resolutions:

Resolved, That the Senate has received with deep sensibility the communication from the House of Representatives, announcing the death of the Hon. Joseph Lawrence, a representative from the State of Pennsylvania.

Resolved, That, in token of sincere and high respect for the memory of the deceased, the Senate and its officers will attend his funeral to-morrow, at the hour appointed by the House of Representatives, and will wear crape on the left arm as mourning for thirty days; and, as a further mark of respect—

Resolved, That the Senate do now adjourn.

The question was put, and the resolutions were agreed to unanimously.

REMARKS, APRIL 28, 29, 30, AND MAY 4, 1842,

ON THE APPROPRIATION BILL.[1]

[April 28.] Mr. Buchanan said, in his opinion, there was no branch of the public expenditures which required correction so much as that of the judiciary. It had risen rapidly from year to year, until it had reached the amount of nearly half a million; and it was now proposed to increase it by the addition of $100,000. He, (Mr. Buchanan,) from peculiar circumstances, had reason to know that there were abuses prevailing in this branch of expenditure, arising from the mode in which the accounts are audited. The Secretary of the Treasury, as they had been informed by the Senator, was not the person from whom the estimates came; they came from the marshals of the different districts—the very men who were to receive the money. And how were the accounts settled? Not by the Treasury Department; not by any person who was responsible for the proper performance of the duty; but by the judges, who hold their offices during good behavior, and who were not in any way responsible. A circumstance had come to his knowledge, which he would mention. The Auditor of the Treasury having charge of matters of this kind, had over and over again resisted the allowance of extravagant sums which had been made to the marshals and district attorneys. And what was the consequence? The marshal, having the money in his own hands, paid himself. And though the United States might bring its action to recover back the money, that action must be tried before the judge, who certified the amount; and in every case the United States had been, and would be, obliged to allow the money to be retained. This was the state of the case. The Auditor of the Treasury, whose duty it properly was to audit and examine these accounts, had been obliged to yield, and to pass these accounts, though he did not believe they were sanctioned by law. He (Mr. Buchanan) was inclined, therefore, to believe that the provision now under consideration, directing the accounts to be referred to the head of the Treasury Department, instead of the judges, was a very good one. He (Mr. Buchanan) entertained a high respect for the judges of the Supreme Court; but they were not the proper officers for the auditing of these accounts. They were necessarily under the influence of kindly feelings, and it would be an extremely unpleasant duty for the

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 450–451, 455, 459–460, 473, 475.

judge to reject an account claimed by his clerk or the marshal of his district. He would be extremely unwilling to reject or to reduce its amount. The proper person to have the inspection of these demands would be the Secretary of the Treasury; and they would then have a uniformity throughout the whole Union. There would be one uniform and settled rule; and if that rule should prove incorrect or improper, they would at least have an officer who would be responsible to them for it; but as for the judges of the Supreme Court, they were in no degree responsible. The judges themselves, he had reason to know, had become—he would not say alarmed at, but they had become sensible of the enormous increase in the amount of these demands, and had been engaged in adopting rules for the purpose of diminishing them, and of keeping them within proper and safe limits. He therefore considered the proviso which referred these matters to the proper department, and relieved the judges from it, would be as beneficial to the country as it would be satisfactory to the judges themselves.

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Mr. Buchanan remarked that this was an enlightened and practical question of economy. It was whether they should increase the expenses of the Government. Instead of the retrenchment promised, he was sorry to see a disposition to increase rather than diminish the public expenses. The question, he said, was, was $6,000 a fair compensation for the district attorney of New York? Could any man doubt it? No more could have been desired two years ago, when money was not worth half as much as it is now; for one dollar will purchase as much now as two dollars would then. Here was an allowance of $6,000 per annum, to be paid in gold and silver, and yet it was supposed not to be sufficient. He denied that he was one of those who were for cutting down the salaries beyond what might be considered liberal, and adequate to the services required to be performed. He believed that $6,000, to be paid in the best currency of the country, was amply sufficient to command the best talents of the young, active, and enterprising men in the city of New York. There might be some old men of good talents, and plenty of means, and without enterprise, who would not accept the office at such a salary; but he had not a doubt they could procure the best talents in that city for the money at such a time as this. Is Congress prepared to give this district attorney $6,000, $3,000 for a deputy, and $3,000 more for the expenses of office? The Senator from

South Carolina [Mr. Preston] complained of revenue being raised from fees. Was not the country paying its judiciary from three to four hundred thousand dollars annually; and was it to be said that after paying the district attorney of New York $6,000 a year, the United States shall not retain the balance out of the $20,000 fees of that office, in part payment of the enormous advances for the judicial department? When he first rose, he intended to say that he thought the accounts of the district courts ought to be audited at the Treasury Department, instead of by the judges of the courts. Instead of the circumstance which he had mentioned of the judges of the Supreme Court having been alarmed into the adoption of a rule to reform the enormous expenditures, being, as the Senator from South Carolina [Mr. Preston] imagines, in favor of leaving the matter to be matured by them; it was the strongest evidence that great abuse had existed, and that a repetition of it ought to be prevented, by giving the auditing of the accounts to the Treasury Department.

[April 29.] Mr. Buchanan said he was very anxious that this bill should be passed as speedily as would be consistent with an examination of all the particulars that might require examination. Whilst they, without the slightest hesitation, appropriated all the necessary sums to pay themselves, the poor clerks in the different departments, who were living from hand to mouth, were now almost starving, or else being shaved by the brokers, at the rate of about fifteen or twenty per cent. in order to procure subsistence for their families. He was therefore sorry that the debate had branched out in the way it had, beyond its proper limits, and that they were to discuss the improvement of the harbor of Chicago, of Milwaukee, and of Michigan city, and, to cap the climax, that they were to travel upon the Cumberland road; and all this while considering the subject of the custom-house at Boston. He would gladly, if it were in his power, terminate this exceedingly irrelevant debate. With regard to the Boston custom-house, he believed there had been the most extravagant and unnecessary expenditure of money that could be devised. But the work having been commenced, and a large sum already expended, it must be completed—that was inevitable. The chairman of the Committee on Finance had informed them that debts had been contracted in the prosecution of the work to the amount of nearly $50,000. He had no doubt that this was really the case, because it was uniformly the case that their

public officers exceeded the appropriations; a thing which they ought never to do. It was a bad practice. But if debts had been contracted, they must be paid; that was inevitable. The buildings must be completed, and, for his own part, he was willing to go to the extent of $100,000 to accomplish this purpose—$50,000 to pay off the debts and contracts, and $50,000 to be spent—but no more, in carrying on the work. He hoped that when the enormous expense of this work came to be laid before them, it would serve as a beacon hereafter to warn them against undertaking a large public work without first knowing what the cost would be.

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Mr. Buchanan observed it was somehow or other his fortune, whenever he rose to address the Senate, to have a word or two to say to his friend, the Senator from Kentucky; and it was a most singular position indeed that he (Mr. Buchanan) should appear in the light of an advocate for the Boston custom-house, while his friend, the Senator from Kentucky, was opposed to it. One thing upon which he would congratulate the Senate and the country was, that the Senator from Kentucky had now taken a stand in favor of retrenchment and reform; and he certainly showed that he was sincere when he opposed an expenditure for the custom-house in his favorite Boston. With respect to that custom-house, he (Mr. Buchanan) had already said the work had been attended with enormous expense; and he agreed with the Senator in every thing he had said regarding it; but the Senator should be aware that, by withholding an expenditure which was absolutely necessary, he may incur the expenditure of a greater sum hereafter.

He agreed with the Senator that $50,000 would be an ample appropriation for the present year. They did not differ at all. But it had been stated by the chairman of the Finance Committee, and the Senator from Massachusetts, [Mr. Choate,] that it would require $50,000 to pay the debt already incurred; and it was perfectly evident that to stop the work and dismiss the workmen, and allow it to remain for a year, the building itself would be dilapidated, and it would cost more perhaps than $50,000 to bring it to the state in which it stands at present. He was ready then to vote for the larger sum, on the assurance that the work could not otherwise go on; and this he believed to be the true principle of economy.

Mr. Crittenden was glad the Senator from Pennsylvania had called his attention to the appropriation of $50,000 in the bill. He found it was a special appropriation to carry on the work, and not to pay any balance. Why should there be any balance? The House of Representatives had not made the appropriation to pay off balances. There was no evidence that the House was aware of this arrearage of $50,000. Congress makes an appropriation for a specific object, and the agents employed to disburse the appropriation not only do that, but so transcend their duty or powers as to incur a debt of $50,000 not authorized by law. What was this, but an indirect way of completing the work, whether Congress would or not?

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Mr. Buchanan, after making some remarks on the impropriety of involving in this debate appropriations to other objects, and not at all connected with the appropriation to the Boston custom-house, said that the Senator from Kentucky [Mr. Crittenden] and himself, he believed, fully coincided in this—that the disbursing officer had no right to go beyond the appropriations; but when the expenses were once incurred, who were the parties that should suffer? Certainly not the laborer, nor the person who furnished the materials. They had no means of knowing that the agent had exceeded his authority. The agent of the Government, or the disbursing officer, was the person who should be held responsible.

[April 30.] The next amendment was—page 29, lines 672 and 673, to strike out "twenty-one thousand two hundred and forty-four dollars and thirty-three cents," and insert "thirty thousand dollars;" being the appropriation for contingent expenses of foreign intercourse.

Mr. Buchanan asked some explanation.

Mr. Evans explained that $30,000 was the usual sum appropriated. But the House of Representatives had fixed the extraordinary sum of $21,244.33, under a mistake, in consequence of a balance of former appropriations being on hand, amounting to $8,755.67, which it was conceived ought to be deducted from the usual sum of $30,000; but it had been since discovered that there were outstanding claims on the balance in hand, which were called for.

The amendment was adopted.

The next amendment was—page 29, after line 678, insert,

"For contingent expenses of all the missions abroad, thirty thousand dollars."

Mr. Evans explained the object of the amendment.

It was adopted.

The next was—page 29, line 679, after "London," insert "and Paris;" strike out "two," and insert "four," being the appropriation (No. 196) for salary of the consul at London *two* thousand dollars.

Mr. Evans explained also the object of this amendment, and submitted a letter from the ministers at Paris and Berlin, and the consul at London, with a view of showing the justness of the addition to the appropriation.

A letter was then read from Mr. Cass to Mr. Webster, dated Paris, setting forth various duties imposed on the American consul in that city, for which he does not get any compensation, though subjected to great additional expense.

A letter was also read from Mr. Wheaton, dated Paris, certifying the necessity and utility of making additional allowance to the consul at Paris.

Also, an extract of a letter from the American consul at London, enumerating many reasons for continuing the salary of the consul at Paris.

Mr. Buchanan asked the Senator from Maine what was the amount of consular fees received by the consul at Paris?

Mr. Evans had no precise information; but he understood the fees amounted to something between three and four thousand dollars a year.

Mr. Buchanan said he was opposed to the amendment. He had had some practical knowledge in regard to the foreign consuls of the United States. There were none of them who received a single dollar of salary—not one, except the consuls in the Barbary States, (and they were diplomatic agents rather than consuls,) and except the consul at London. General Fenwick, an officer who had been wounded in the service of his country, had desired to take the situation of consul, but his application was rejected. The Senate determined unanimously, or nearly so, that the salary should cease, and the present consul went abroad under the full understanding that this would be the case; but, before he has been there six months, they were asked to restore the salary. And for what reason? He would undertake to say that the fees of the consul at Paris amounted to more than $4,000. They ought to be put in possession of this information by official

returns; he was confident, however, he was not wrong when he asserted that the amount was more than $4,000; while the fees derived from the same office at St. Petersburg, the incumbent of which he knew to be a highly honorable and meritorious individual, did not amount to more, on an average, than $1,500. That gentleman had done more in the service of this country than almost any other who had ever been abroad; he possessed strong American feelings, was held in high estimation by the Russians, very often made the arbiter of disputes among them, and his fees were not over $1,500; whilst the expense of living in St. Petersburg was much greater than at Paris. $4,000 in Paris was equivalent, as far as the expense of living is concerned, to $8,000 in St. Petersburg or London. Paris was a place to which people went to nurse their fortunes. This being the case, why should the consul at Paris have a salary allowed to him in addition to the fees of office? The origin of giving a salary was as compensation for the fulfilling of the duties of commissioner of claims. The necessity for that duty had ceased. He had now no duties to perform, except those which were commonly performed by consuls; and he was receiving double or treble the amount received by any other American consul. At the time, too, when the salary was granted, Paris was not much of an exporting city, and the fees of the consul must have been very inconsiderable, in comparison with the present amount. Circumstances had changed; there was now a great deal of direct trade between Paris and the United States. It would, he thought, be a very great injustice towards other officers of this description to give him a salary of $2,000, while they gave nothing to the others. As to the reasons contained in the letters which the Senator had read, he did not consider them entitled to much weight. It was true, applications were made by Americans in distress to the consul, and subscriptions were obtained by him from American residents for their relief. But this was nothing more than was incumbent upon all consuls; and in some cases, as he was aware —particularly in that of St. Petersburg—the consul, in place of obtaining subscriptions, as there were no American residents there, furnished supplies out of his own pocket to American citizens in distress,—and this without having half the amount of means which the consul at Paris possessed.

Another reason given was, that the consul was very serviceable to the resident American minister. Very true; he was often consulted, and was often of considerable service: but no

one ever thought of giving him a salary on that account, merely because he assists the minister occasionally—in return for which, he, no doubt, got many a good dinner. These reasons he did not conceive to be sufficient to induce the Senate to depart from its former decision, in favor of a gentleman who already receives more than any other. It was what he would never consent to.

The question was then called for.

Mr. Evans demanded the yeas and nays.

The yeas and nays were ordered.

Messrs. Rives, Buchanan, and Evans, made a few remarks with regard to the suppression of the salary.

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Mr. Buchanan said he required no more than the letter of the consul itself to convince his mind regarding the propriety of abolishing the salary. The consul had stated how much his salary had been reduced below that of his predecessor, but he had studiously avoided telling them how much would remain. He (Mr. B.) had no doubt but the statement of the Senator from Maine was perfectly correct, that his income amounted to between four and five thousand dollars.

Mr. Evans. I said between three and four thousand.

Mr. Buchanan. The consul himself must have known what he received, but he had not thought proper to inform the Senate. The Senator from New York was perfectly correct in saying that a salary would never have been granted at all to the consul at Paris, had it not been necessary to have a person there as commissioner of claims. The reason had ceased, but, like other abuses, the salary had been continued afterwards. When this gentleman went abroad, however, it was with the understanding that he was to receive no salary. He would vote, though not from any illiberal motive, against this appropriation, with as much satisfaction as he ever felt in giving a vote upon any question.

Mr. Wright observed that the Senator from Pennsylvania had made an explanation which was properly due from him (Mr. W.) He had never heard the question raised until about a year ago, of granting salaries to consuls as consuls. He would relate a little of his experience. When he was a member of the Committee on Foreign Affairs, he ascertained that they were paying salaries to two of their consuls at the most important places, while not a dollar in the way of salary was paid to any other, a large portion of whom were literally starving. He sug-

gested the propriety of the two salaries being withdrawn; but was told that it could not be done, especially as regarded the one at Paris; because, at that time, the claims under the treaty negotiated by the Senator from Virginia were not closed. From that time the matter had been permitted to rest—at least he had heard nothing upon the subject; and he believed the Senate had never been called upon until now to declare whether a consul should, as consul, receive a salary.

[May 4.] Mr. Buchanan said he would not protract the debate, by adding a single word, if it were not for the indispensability of answering the remarks of the Senator from New Hampshire, [Mr. Woodbury.] [1] If the Senator proposed to dispense with the services of a foreign agent, for the purpose of forwarding the despatches of Government, or else to provide a fixed salary for such agent, he (Mr. Buchanan) would say, let it be done; for he held the principle that, when fixed duties were required, the rate of remuneration should not be left discretionary with any department of the Government. Or if the Senator proposed that the consul should perform this duty, he (Mr. Buchanan) had no objection against this arrangement. In fact, he would rather prefer that it should be so. But the part of the amendment of the honorable Senator to which he did object was the first, the effect of which was to deprive the Government of the power of appointing special diplomatic agents, whenever it may become necessary to do so. There was no Government on the face of the earth that had not secret agents abroad, unless it were our own. It might become necessary very shortly—though he did not know whether he ought to allude to the fact—to send a special agent to the island of Cuba, and one to St. Domingo; and, in such case, to have a nomination made and confirmed by the Senate, according to the ordinary method of appointing diplomatic agents, would defeat the very purpose of the appointment, because the necessary secrecy would not be preserved. If the President should hear of any movement in one of the islands belonging to the British Government, upon the slave question, which was calculated to affect the interests of this country, he

[1] Mr. Woodbury proposed to amend the clause appropriating $30,000 for the contingent expenses of foreign intercourse by providing that no part of the money should be applied "to the payment of special agents abroad, appointed without the consent of the Senate or any act of Congress authorizing it; nor for compensation to separate agents appointed in either of those modes for receiving and transmitting despatches."

ought to proceed at once—and with the secrecy of the grave itself, not letting his left hand know what his right was doing—and despatch a confidential agent to the spot, that he might be put in possession of early and authentic information upon every minute particular in relation to such movement. This amendment, as he understood it, would deprive the Executive of this power; a power so essential to the interests of any country, that no Government on the face of the earth was destitute of it. It deprived him of the power, by denying him the amount of expense necessary for transporting an agent even to the place of his destination. This (said Mr. Buchanan) cannot be right. It cannot be politic, or praiseworthy. I perfectly agree that, where it is possible, from the nature of things, to define the duties and fix the salaries of agents of the Government, it ought to be done. But our foreign intercourse is not of that nature at all. I admit that such discretion may be abused; that it has been abused. But the question is, can we take it away altogether? Now I will inform the Senate what was my condition when I was abroad. There never was a despatch sent to me in the winter season, through the post office, that had not been opened and read by every Government through which it passed. The American eagle, placed upon it in the city of Washington, became a most miserable turkey buzzard before it reached its destination. It is well known throughout the continent of Europe that the post offices continually and systematically violate their charge by the inspection of official communications which are transmitted through them. This Government has to be dependent upon the couriers of foreign Governments for the conveyance of its despatches. Our despatches forwarded to St. Petersburg, and, I believe, to Berlin, are conveyed through the courtesy of British and French couriers; and in case of a war, I would not like to trust either the English or the French. There is no necessity for a courier between this country and England, because any gentleman going abroad would be glad of a courier's passport, which gives him the privilege of passing his baggage without examination at the custom-house. But, under the circumstances which I have referred to, while I shall vote for the latter clause of the amendment of the Senator from New Hampshire, I shall feel compelled to vote against the first; because I would not, for the sake of saving a few dollars, or for the sake of condemning the abuses of discretion on the part of the Executive, which may have existed, afford the Government an excuse for not sending agents abroad—secretly, if you

please, whenever the interests of the country require it. I would judge of his conduct after the fact, and condemn or approve as I thought proper; but I would not deprive him of that power without which the affairs of Government cannot be carried on with advantage.

Mr. Woodbury observed, that he had stated yesterday his restriction would be only temporary, and need not operate past July, as the Committee on Retrenchment could, by that time, adjust and regulate the whole diplomatic expenditures according to the resolution referred to them, and to the views now expressed. All the present amendment looked to was, that the power over the contingent fund should be regulated by law. It could easily be adjusted so as not to interfere with the proper functions of the Executive, in any sudden or temporary emergencies.

Mr. Evans remarked, that if the only object of the amendment was the restriction of the contingent fund to purposes authorized by law, there was no occasion for it at all, as the law was already a sufficient safeguard.

Mr. Buchanan observed, that the Senator from New Hampshire depended on the Committee on Retrenchment setting the matter right. He doubted whether the Committee on Retrenchment would act at all in relation to it; or, if they did report a bill, whether it would be passed or not. If he understood the nature of the amendment, it did not at all accomplish the object of the Senator from South Carolina, [Mr. Calhoun.] It merely prohibits the appointment of special agents. If the amendment was adopted, it would still leave it in the discretion of the Secretary of State to give what amount of salary the services of those who may be appointed are worth. It would, if adopted, cut off all special agents which it may be necessary to send abroad. In the present unsettled state of our foreign affairs, which may call for the appointment of special agents abroad, he could not vote for it. And if it should become necessary to send any such agents abroad, they should have such compensation as their services might be worth. He believed there had not been money enough spent by this Government for secret services in regard to foreign relations. He believed none had been employed for twenty or thirty years under this Government. He could, however, (though he would not,) name one legation at St. Petersburg, which had obtained copies of every State document desired, though at great cost; but he did not say that he approved of the

practice. It was, however, occasionally a necessary one, and the Executive should not be tied up in regard to it. The agents would be responsible for fulfilling the duties for which they are to be paid. He would move to strike out the first part of the amendment.

Mr. Woodbury observed that he had suggested a modification, inserting the word "diplomatic" after "special."

Messrs. Evans and Buchanan made a few explanations.

* * * * * * * * * *

The question now being on ordering the amendments to the bill to be engrossed for a third reading—

Mr. Buchanan rose and said he had another amendment to propose, which he considered was necessary to put himself right in view of his course on the amendment proposed by the Senator from New Hampshire, [Mr. Woodbury.] He could not vote for the other amendment, because it deprived the Government of a power which in no civilized Government in the world was denied —the power to appoint secret or special agents abroad, in cases of great emergency and absolute necessity. At the same time, he believed those agents, such as are *now* in the employ of the Government abroad, should be salaried officers, and should be provided for by law. Mr. B. then read his amendment (which was to be appended to that portion of the bill appropriating $21,244.33 for contingent expenses of foreign intercourse) as follows:

And provided further, That no part of this appropriation be applied, after the 1st of July next, for compensation to support agents appointed without the consent of the Senate, or any act of Congress authorizing it, for receiving and transmitting despatches.

Mr. B. said this was just the amendment of the Senator from New Hampshire, [Mr. Woodbury,] striking out that part applicable to special agents, which it might be found necessary to send abroad.

The question was taken on the amendment, and it was agreed to by ayes 21, noes 18.

SPEECH, MAY 9, 1842,

ON THE UNITED STATES COURTS.[1]

In opposition to the "Bill to provide further remedial justice in the courts of the United States,"

Mr. Buchanan addressed the Senate as follows:

Mr. President: I rise to discuss this important bill with considerable distrust in my own ability to do it justice. I have now been long out of the practice of the law, and am not familiar with the recently adjudged cases; but, upon broad constitutional principles, I trust I shall be able to satisfy the Senate that this bill ought not to pass. The more I have reflected upon its provisions, the more deeply am I convinced of their injurious tendency. When you propose to deprive the State courts of a criminal jurisdiction which they have so long exercised, and vest it in the Federal courts, you propose a dangerous and untried experiment—an experiment calculated to bring the sovereign States into collision with the Federal Government, and thus to endanger the peace and harmony of the Union. Impressed, then, with a deep sense of the importance of the change which this bill proposes, and with a firm conviction, so far as it regards the relative working of our institutions, State and Federal, that it is by far the most important measure of the present session, I shall proceed to open the discussion against the bill, with that feeling of high responsibility which the subject could not fail to inspire. The Federal and State Governments may move along in their separate and appropriate spheres, and each may accomplish the purposes for which it was called into existence, without danger of collision; but this result can only be attained by a wise spirit of forbearance on the part of Congress—a spirit, however, far different from that which pervades the present bill. It proposes an extension of the jurisdiction of the Federal courts over criminal cases arising in the sovereign States, under their own laws, which, from its very nature, cannot fail to wound their sensibility, and arouse their jealousy.

But, sir, before I proceed to the argument, let me state the nature of the question to be discussed.

The Constitution of the United States declares that "the judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States,

[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 382–388.

and the treaties made, or which shall be made, under their authority." (Article 3, section 2.) And that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." (Article 3, section 1.)

The first Congress which assembled under the Constitution carried this judicial power into execution, so far as they deemed it expedient, by the "Act to establish the judicial courts of the United States," which was approved September 24, 1789. (2 Laws of the U. S. page 56.)

The framers of this act foresaw that, in numerous cases which must necessarily originate in State courts, the one party or the other, for the purpose of sustaining his claim, would invoke the aid of the Constitution, the laws, or the treaties of the United States. In such cases, then, it would become absolutely necessary for the State courts to expound this Constitution, and these laws and treaties; and, with this view, the Constitution itself had declared that "this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; *and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.*"

But what was to be the remedy, if State courts should decide against any claim sustained by the Constitution, a law, or a treaty of the United States? The first Congress have answered this question by the famous 25th section of the judicial act. They have clearly and distinctly defined the cases arising in the State courts, which might be carried by appeal into the Supreme Court of the United States, by enacting "that a final judgment or decree in any State, in the highest court of law or equity of a State in which a decision in the suit could be had, where is drawn in question" the Constitution, laws, or treaties of the United States, and the decision is against the claim set up under them, "may be re-examined, and reversed or affirmed, in the Supreme Court of the United States, upon a writ of error." In these cases, and in these alone, did the first Congress subject the State courts to the supervising power of the Supreme Court of the United States. The Senate will perceive that this jurisdiction cannot be exercised until after the State courts shall have tried the cause and rendered final judgment; and even then, although a hundred other points may have arisen upon the trial, the Supreme Court is

confined, in its review of the decision, to the single point arising under the Constitution, a law or a treaty of the United States. Nay, more: if the State court have decided the point in favor of the party who had invoked the Constitution, the law, or a treaty, their decision is final, and is not subjected to review. Such, then, is the existing law; and if Federal jurisdiction is at all to be exercised over the State courts, it is exercised under this 25th section in the most unexceptionable manner. Under it, until the State courts shall have conducted the cause to a final termination, the Federal courts have no jurisdiction, no control whatever over the proceeding.

The constitutionality of the 25th section of the judicial act has been contested on different occasions since the origin of the Government. In the celebrated case of Martin *vs.* Hunter's lessee, in 1816, (1 Wheaton, 354,) it was denied by the court of appeals of Virginia; and they had nearly come into a dangerous collision with the Supreme Court of the United States on this very question.

The Supreme Court have, also, decided that this section applies to criminal, as well as civil, cases arising in the State courts. (Vide Cohens *vs.* the State of Virginia, in 1821, 6 Wheaton, 264; and Worcester *vs.* the State of Georgia, in 1832, 6 Peters, 515.)

Now, sir, in this argument, it is not my intention to dispute the authority of any of these cases. It would be presumptuous in me to make any such attempt. I do not deny the constitutional power of the Supreme Court, whether in a civil or criminal case, to review the judgment of a State court, under the 25th section of the judicial act, if, on the trial of the cause, it became necessary to construe the Constitution, the laws, or the treaties of the United States, and the decision on the point were against the party invoking their aid. This admission at once disposes of the greater part of the argument of the able and ingenious Senator from Georgia, [Mr. Berrien.]

This system has been in operation for more than half a century; and I would ask, what practical evils have resulted from it, requiring the extraordinary remedy proposed by the present bill? Although it had to encounter difficulties at the first—although some of the sovereign States had contested its constitutionality—yet time and experience have strengthened its foundations, and the people of the country now repose upon it without a murmur. Many and serious complaints have been

made, in times past, that it gave to the Federal judiciary more power than the Constitution would justify; but, for some years, there has been a silent acquiescence on this subject. But who has ever complained that it conferred too little power on the Supreme Court of the United States? Such a complaint has never reached my ears from any portion of the people of this country.

Why, then, make the proposed change? Has the Senator from Georgia pointed to any evils, under the existing law, requiring a remedy? Has he stated one good and valid reason why, at this late day, it should be so radically changed? Has not the constitutional authority of the Supreme Court of the United States over the State courts been effectually asserted and vindicated under this law? Why, then, should our whole system of criminal law be changed, after it has been in efficient operation for more than half a century, without having produced any injurious results to any human being? Under it, every man indicted and convicted in a State court has ample redress, by a writ of error from the Supreme Court, in case the Constitution, the laws, or the treaties of the United States, have been violated on his trial. Even if some inconveniences had arisen, (and this has not been shown,) surely it would be much wiser, under such circumstances,

—— "to bear the ills we have,
Than fly to others that we know not of."

Throughout the very able speech of the Senator from Georgia, I could not discover the least proof, or even statement, of any practical inconvenience which had resulted from the existing law. The only evil to which he referred was that of the McLeod case; but this case was of a peculiar character, and not embraced within the provisions of the 25th section. Why not limit your legislation, then, to the existing alleged grievance? Why, instead of providing for the case of foreigners acting under the command of their own sovereign, and for it alone, do you propose to make a radical change in the whole system of our criminal jurisprudence, as applicable to citizens of the United States, without any petition from the people, and without any complaints from any quarter?

What is the remedy—permit me to say, extraordinary remedy—proposed by the present bill for the supposed defects in the judicial act of 1789? It is this: That in all cases where a crime has been committed within the acknowledged and exclusive

jurisdiction of any State—a crime which can alone be punished under State laws—the criminal may, at his will and pleasure, arrest the progress of the criminal justice in State courts at any time before trial; withdraw himself from the State tribunal; and refer his case to a judge of the district court of the United States at his chambers. The moment a man is arrested for such a crime under the laws of the State, he may present a petition to such a United States judge, setting forth that he is in custody " for or on account of an act done, or omitted to be done, under or by virtue of the Constitution, or any law or treaty of the United States, or under color thereof, or for or on account of any act done or omitted under any alleged right, authority, title, privilege, protection, or exemption, set up or claimed under the same, *or under color thereof,"*—ay, Mr. President, even *" under color thereof;"* and then the judge grants him a *habeas corpus.* This writ at once annihilates the power of the State court to try crimes committed in violation of State laws, and transfers the trial of the case to the district judge of the United States; and this, too, without the instrumentality of a jury. The arm of State authority is at once palsied by the bare presentation of this petition; and the foulest murderer may thus be released from its grasp. This is the bill before the Senate. Under it, the whole power of the State falls dead, merely upon the application to a Federal judge of a man who may be tainted with every crime.

Upon this *habeas corpus* the judge is to examine witnesses, and to try both the law and the fact. He has power to acquit; but he cannot convict. If he releases the accused, this is an absolute acquittal, or " final judgment of discharge," as it is termed by the bill; and any proceeding afterwards against him in the State court, from whose jurisdiction he had withdrawn himself, is declared to be null and void. The following is the language of the bill:

> The said justice or judge shall proceed to hear the said cause; and if, upon hearing the same, it shall appear that the prisoner or prisoners is or are entitled to be discharged from such confinement, commitment, custody, or arrest, for, or by reason of, such alleged right, title, authority, privilege, protection, or exemption, so set up and claimed, and that the same exists in fact, and has been duly proved to the said justice or judge, then it shall be the duty of the said justice or judge forthwith to discharge such prisoner or prisoners accordingly. And pending such proceedings or appeal, and until final judgment be rendered therein, and after final judgment of discharge in the same, any proceeding against said prisoner or prisoners,

in any State court, or by or under the authority of any State, for any matter or thing so heard and determined, or in process of being heard and determined, under and by virtue of such writ of *habeas corpus,* shall be deemed null and void.

Thus far I have adverted chiefly to that portion of the bill which is confined to such cases as may now, under the 25th section of the judicial act, be re-examined by the Supreme Court on a writ of error; and this is its most important portion, so far as citizens of the United States are concerned. Cases may daily and hourly arise, in every part of the Union, to which it would be applicable. In all such cases, this bill deprives the State courts of the power to try crimes committed within their own territory.

But the bill proceeds much further. The judicial power of the Union is limited to cases arising under the Constitution, the laws, or the treaties of the United States;—but one clause of this bill extends it to two other classes of cases, unknown to the Constitution: I refer to those arising under the law of nations, and under the commission of a foreign sovereign. But let me read the clause itself, from which it will be perceived that the remedy proposed by the bill embraces "all cases of any prisoner or prisoners in jail or confinement, where he, she, or they, being subjects or citizens of a foreign State, and domiciled therein, shall be committed or confined, or in custody, under, or by any authority, or law, or process founded thereon, of the United States, or any one of them, for or on account of any act done or omitted, under any alleged right, title, authority, privilege, protection, or exemption, set up or claimed *under the law of nations, or under the commission, or order, or sanction of any foreign state or sovereignty, or under color thereof.*"

The law of nations or the commission of a foreign state, forsooth! This language is entirely foreign both to the letter and spirit of the Constitution. It is nowhere to be found in that instrument as a source of judicial power. The case of McLeod has indeed been unfortunate, if this bill should ever become a law. In that event, it will prove to have been a Pandora's box, from which more evils will proceed than have ever issued from that fatal casket. To propitiate the British Government for the trial of McLeod, we are not only to provide a remedy entirely without the pale of the Constitution for foreigners like him; but, to cover up this act of submission, and render it less glaring in the eyes of the world, we are about to change our whole system of

criminal jurisprudence in regard to our own citizens, although it has stood the test of fifty years, and is now universally approved by the country, and make it conform to the proposed legislation for such foreigners.

In the discussion of this subject, I propose to present to the Senate a few plain and distinct propositions. I shall first discuss the question as though Congress possessed the power, under the Constitution, to pass this bill; and, admitting this to be the case, shall endeavor to prove that this power ought not to be exercised. And, in the second place, I shall maintain that no power exists in Congress, under the Constitution, to pass any such bill. These are my two general heads.

And, in the first place, Congress ought not to pass this bill, even if they possessed the power; because its natural tendency—nay, its inevitable effect—will be to produce collision between the Federal and State Governments, and to endanger the peace and harmony of the Union.

Of all the sovereign powers retained by the States, they are the most jealous of their jurisdiction over their own territory. The right to punish crimes committed against their own laws, and within their own limits, is an elemental attribute of sovereignty. Without this, sovereignty cannot exist anywhere, or under any form of government. Under the existing judicial act, this State jealousy is lulled to sleep; because the State authorities are treated with all the respect and forbearance consistent with the supervising power of the Supreme Court of the United States. Criminals are tried, convicted, and sentenced by the State courts. Even in cases which have produced the most general and intense excitement among the people, this is allayed by the regular march of justice before the State tribunals, until after sentence has been pronounced. If the record is then removed to the Supreme Court for supervision, it is in a manner accordant with the original legislation of the Government, adopted by the fathers of the Constitution themselves. The facts of the case have all been tried before a jury of the State where the crime was committed; and the Constitution itself prohibits the Supreme Court from re-examining these facts. Nothing but mere questions of law, arising on the face of the record, are presented to that court; and they decide whether the State court, upon the trial, have given a wrong construction to the Constitution, an act of Congress, or a treaty of the United States. Should the judgment be affirmed, the record is returned to the State court, and the criminal suffers

the penalty attached to his crime under State authority. The States have been accustomed to this proceeding, from the foundation of the Government. But what does the present bill propose? A man is arrested for murder, or any other crime, committed within any county of a State. The place may be 150 or 200 miles distant from the residence of a circuit or district judge of the United States. The criminal asserts that the Constitution, an act of Congress, or a treaty, is involved in his defence. All then which he has to do, is to petition this United States judge for a *habeas corpus;* and the State court must, at once, abandon the exercise of its criminal jurisdiction. In this manner, even if an indictment has been found by a grand jury, and the court are in the very act of proceeding to trial, their course may be arrested. The attorney general of the State, with the witnesses in behalf of the prosecution, are dragged away before a distant Federal judge, whose prerogative it is to try and decide the cause, without even the agency of a jury. I ask, sir, is not this to prostrate the State sovereignties in the dust?

Now, sir, it is easy to imagine many cases in which such a proceeding would almost necessarily produce collision between the State and Federal authorities. Let me present one. Suppose a fanatical abolitionist, who thinks he is doing God service, should go into Georgia, and, in defiance of its laws, attempt to excite an insurrection among the slaves. He is arrested and indicted for this crime. Immediately before the trial, he says: "The Constitution of the United States secures to me the freedom of speech and of the press; and I have done no more than exercise these constitutional rights, in teaching the slaves that they ought to make a struggle for their freedom." "Under color" of such a plea (to use the language of the bill) he sets the criminal laws of Georgia at defiance, and refers his cause to a distant district judge of the United States to hear and determine both the law and the fact; and after he shall have decided, a tedious process of appeal from one Federal court to another is then to commence, which will not be completed for at least two years. The attorney general of the sovereign State, with his witnesses, must appear before this district judge, to show cause why the laws of Georgia should not be annulled by him, because they violate the Constitution of the United States. Would such a bill as this prove satisfactory to the people of Georgia? No, sir, no. I venture to predict, that more excitement and discontent will be produced by this bill, should it become a law, than has ever arisen from

any other act of Congress. The pride of the States will be roused—State feeling will become exasperated—when they find themselves divested of so material, so vital a branch of sovereignty, in such an arbitrary and insulting manner; and, instead of the harmony which now prevails, you will produce direct collisions between the Federal and State Governments. It is a dangerous experiment, which will peril the peace and perpetuity of the Union. Cases may occur in which the *habeas corpus* of your district judge will be treated as so much blank paper; and you will have to send an army to enforce its execution.

The Senator from Georgia has told us that the writ of *habeas corpus,* under this bill, is the most proper means of bringing the cause before the district judge. Now, sir, this great writ was intended to vindicate personal liberty from arbitrary and despotic restraint; and thus to assert the rights of freemen. It is the safeguard, wherever it exists, of personal liberty against tyrannical oppression, and without it no free government can exist. But to what purpose is it proposed to pervert this writ by the present bill? It is to become the instrument of crushing the judicial power which the States still retain, and conferring it upon the Federal courts. This, sir, will indeed be to pierce the noble bird, which is the emblem of our national liberties, in his flight, by an arrow feathered from his own wing. The writ of *habeas corpus!* Who, before, ever heard of the trial and final decision of any criminal cause before a judge at his chambers on this writ? Who, before, ever heard that it was to be substituted for an indictment and a trial by jury? Who, before, ever heard of its application to any other purpose than that of inquiring into the cause of commitment, for the purpose of ascertaining whether the prisoner, in the first instance, ought to be remanded, bailed, or discharged? The legitimate object of this writ is clearly and distinctly designated by the 14th section of the judicial act, whereby it is granted "for the purpose of an inquiry into the cause of commitment;" "and the question to be determined on a *habeas corpus,* for the purpose of inquiring into the cause of commitment, is, whether the accused shall be discharged, or held to trial; and if the latter, in what place the trial shall take place; and whether the accused shall be confined, or admitted to bail. If, upon this inquiry, it manifestly appears that no crime has been committed, or that the suspicion entertained of the prisoner was wholly groundless, in such case only is it lawful totally to discharge him.

Otherwise, he must either be committed to prison or give bail." (Sergeant's Constitutional Law, page 68.)

Under the judicial act, no Federal judge is authorized to issue a writ of *habeas corpus* at all, for the purpose of bringing before him any prisoner committed under State authority. His authority to issue such a writ is confined, by the express terms of the 14th section, to prisoners in custody "under or by color of the authority of the United States, or who are committed for trial before some court of the same." The framers of this act were thus particular in drawing the line of distinction between the authority of the Federal and State courts, for the purpose of preventing all clashing jurisdiction. The barriers which they have so wisely erected between them will be rudely broken down by this bill; and every Federal judge in existence, by means of this writ, may bring any prisoner before him, who has been arrested under State authority, for any crime committed against State laws.

In the second place, you ought not to pass this bill, because, even if Congress possess the power to remove criminal cases from the State courts before trial, you cannot, under the Constitution, confer upon any Federal judge, or even upon the Supreme Court itself, the power to try the facts involving the guilt or innocence of the accused, without the intervention of a jury of the country. That this bill proposes to confer such a power on the district judge, does not admit of doubt. Whether the act charged as criminal can be justified under the Constitution, a law, or a treaty of the United States, or under the law of nations, or the commission of a foreign sovereign, necessarily presents a mixed question of law and fact. The ten thousand officers of the United States, both civil and military, who may be charged with crimes before the State tribunals, are justifiable, if they have kept within the limits of their authority. If they exceed these limits, and commit an act which is criminal under the laws of the State, they render themselves liable to punishment. The question of fact in such cases always is: have they or have they not exceeded their authority? and this will depend upon the conflicting testimony of witnesses. Let me present an example which will bring the question more distinctly to the view of the Senate. Your marshal may serve the process of the Federal court; and, whilst he acts within the limits of that authority, the law justifies him in any necessary force which he may use in obedience to the commands of his writ. But if, in the execution of this process,

whether from resistance or any other cause, he kill a man, and is arrested for murder, the question arises, not only as to the extent of his authority, but whether he has exceeded that authority. Now, the present bill confers upon this district judge the power to try the fact as well as the law—the fact of the excess of authority, as well as of the validity of his warrant. Indeed, in every criminal case, the law and the fact are so intimately blended that it is almost impossible to separate the one from the other. This bill everywhere speaks of the hearing of the cause before the district judge, of the proof of the facts, of the final judgment to be rendered therein, and of the effect of this judgment in acquitting the prisoner from all further responsibility in the State courts. It confers upon the judge not merely the power of a court alone, but of a court and jury united. Now what does the Constitution declare upon this subject? Under it, can such a trial be had without the intervention of a jury? And if you interpose a jury, as was proposed by the Senator from Massachusetts, [Mr. Choate,] you will cast an air of ridicule over the whole bill. Who ever heard of a trial by jury in a criminal case upon a *habeas corpus,* instead of an indictment? and that, too, whilst an indictment may be actually pending before a State tribunal at the very same time and for the very same crime. The Constitution expressly declares that "the trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed."—Article 3d, section 2d, clause 3d.

"*The trial shall be by jury.*" But it may be said, this is the privilege of the accused alone, which he may waive at pleasure. No, sir; it is also the privilege of the sovereign States, and of all the people of the country. The rule of the Constitution is, as it ought to be, universal. "The trial of all crimes shall be by jury." This is the original text of the Constitution; and the 6th article of the amendments, far from limiting its extent, secures to the accused not the right to a trial by jury, which he enjoyed before, but the further right to a speedy and public trial. "The trial of all crimes shall be by jury." And yet this bill declares that, in numerous cases, requiring the attendance of witnesses both in behalf of the prosecution and the defendant, and the proof of facts on which the whole merits of the cause may depend, the trial shall be before a judge, at his chambers. State sovereignty, State jurisdiction over crimes committed against State laws, becomes a thing of so little consequence, that nothing more is

required to take it away than the mandate of a district judge of the United States, on the application of a criminal who has violated these laws.

This district judge will have the power to acquit the accused, and discharge him forever. But the bill does not enable him to convict. To confer such an authority would be too absurd, because this would involve the power of sentencing a criminal, for an offence committed against State laws, by a Federal judge. We are not yet quite ready for so barefaced a usurpation. He can only acquit, but cannot convict. He can determine the cause finally in favor of the prisoner, but not in favor of the sovereign State.

But, although the judge can neither convict nor sentence under this bill, yet his decision to remand the defendant to the State jurisdiction will operate with fearful force against him. This decision cannot be pronounced until the judge has satisfied himself that the defence of the accused is unavailing. In the case of the marshal which I have already supposed, it must have been decided that he had exceeded the authority conferred upon him by the laws of the United States, and, therefore, was guilty of the crime of murder. He is remanded to the State courts, then, with all the prejudices from this decision resting upon his head, to go through the form of trial, in order that he may be sentenced and executed under State authority.

In the third place, this bill ought not to pass, even if it were constitutional; because the increase of litigation, the delay, the expense, and the inconvenience under it, would be intolerable. and, in many instances, the guilty would escape altogether from punishment.

The increase of litigation.—The old system of the fathers of the Constitution, which we now propose to change, has worked admirably. We have had but very few writs of error, in criminal cases, from the Supreme Court to State courts, since the origin of the Government. I believe there have been but two reported. There may have been more; but, if so, I am not aware of the fact. I refer to Cohens *vs.* the State of Virginia, and Worcester *vs.* the State of Georgia. At all events, such cases have been but few and far between. And what is the reason? It is not because the Constitution and laws of the United States have not been frequently interposed in the defence of criminals in State courts. Every man acquainted with the administration of criminal justice must know that this cannot be the reason. Many provisions,

both of the Constitution of the United States and of acts of Congress, might be enumerated, which have often been invoked in defence of such criminals. And yet but two writs of error in such cases have been prosecuted in the Supreme Court throughout our whole history. The true reason is, because the State courts, whenever the accused has appealed to the Constitution, the laws, or the treaties of the United States, have answered this appeal in such a manner as to satisfy himself and his counsel of the correctness of the decision. Under the proposed bill, the criminal cases brought before the Federal judges will be very numerous. It is an invitation to litigation. Under the advice of his counsel, the accused will use every means within his power to procure his acquittal. This is natural. Whenever, then, a man is arrested or indicted for a criminal offence, if "any color" exists (to use the language of the bill) under which he can pretend that his defence, in whole or in part, rests upon the Constitution, a law, or a treaty of the United States, he will transfer his cause to a district judge of the United States. Independently of his chance of escape altogether, this will insure his safety for at least two years.

Let me state how this delay will be occasioned. A hearing must first take place before the district judge, at such time as will suit all parties. The attorney general and the accused must often bring their witnesses from a great distance. The convenience of the judge himself, and his other avocations, must be consulted as to the time of the hearing. After he shall have decided on the *habeas corpus,* the case will then only have fairly commenced. Whether the decision be in favor of the one party or the other, the next step in its progress is an appeal to the circuit court. In several of the States, I believe, the circuit court holds but one session in a year: in all the other States, there are but two sessions. After this appeal shall have been decided in the circuit court, either party may then appeal from its decision to the Supreme Court of the United States, which sits but once in each year; and this court is already so notoriously encumbered with business, that a considerable time must elapse before its judgment can be obtained. It will be found that, to go the whole round of litigation marked out by the bill—first, from the State court to the district judge; second, from the district judge to the circuit court; third, from the circuit court to the Supreme Court; and fourth, from the Supreme Court back again to the State court, should the cause be remanded—will require, at the very least, a period of two years. And, after all this delay, in case the cause be sent

back, the prosecution must then commence anew before the State tribunals. Instead of having but two appeals from State courts, in criminal cases, as within the past fifty years, I venture to say that the number will be swelled to hundreds and to thousands, within the succeeding half century. And for what good reason do you change the law? If the accused be really entitled to protection under your Constitution, laws, or treaties, is it not afforded him in the most speedy and effectual manner under the present well-tried system? He is tried at the first—or, at the latest, at the second—term of the State court after the offence has been committed; and these terms are held four times in each year. Should he be convicted, if he deem himself injured by any decision of the State court, in either of the particulars to which I have referred, he can sue out a writ of error from the Supreme Court of the United States, and obtain the redress to which he may be entitled, at the first term thereafter. All unnecessary delay is thus avoided.

But the expense and inconvenience under this bill will be intolerable. Whenever you attempt to carry the jurisdiction of the Federal courts into the domestic concerns of the States, you produce confusion worse confounded, and prove, by the practical result, that these courts never were intended for any such purpose. There is but one district judge within the State of Indiana. The same may be said of Mississippi, and other States of large territorial dimensions. In Pennsylvania we have but two district judges. In many cases, the attorney general and the witnesses must travel hundreds of miles to reach the district judge. The expense and the inconvenience will thus become intolerable. In many cases, this will cause an escape from justice altogether. Most criminal prosecutions are instituted by private prosecutors; and the attorney general appears before the State court merely as the law officer of the Government. It is not to be expected that such a prosecutor would consent to ruin himself, and incur the expense of travelling, with his witnesses, from one end of a large State to the other, in pursuit of the accused; and, in such cases, the hearing before the judge will often be *ex parte*. This bill will, therefore, often screen the guilty from punishment altogether. This will probably be the effect in all cases, except those in which the enormity of the crime, or the intrinsic importance of the principles involved, shall produce much public feeling, and excite much public interest.

Sir, a little respectful regard ought still to be paid by us to

the sovereign States of this Union. They called us into existence; and we ought to remember our own origin. We ought to consider their ancient power and splendor; and, if for no other reason, at least from the memory of the past, we ought not now to deprive them of the power of trying offences committed against their own laws. Let them proceed in their own humble manner, as they have heretofore done, to try such causes; and, before these causes are removed to the Supreme Court, let their judges still enjoy the privilege of delivering opinions, sustaining the rights of the States in questions arising under the Constitution, the laws, or treaties of the United States. Let the weight of their authority and arguments be still felt in the Supreme Court of the United States; and do not send these important questions to be decided *ex parte,* as they often will be, before a district judge, at his chambers.

But, in the fourth place, if it were constitutional to pass the bill, I would not vote for it, on a principle of national honor. Even if the bill were expedient in itself, it ought never to become a law until after some atonement shall be made by the British Government for the capture of the Caroline.

Now, sir, I desire to say nothing in regard to the McLeod case, which may tend to aggravate hostile feelings. I sincerely hope that the special embassy from Great Britain may be the means of preserving peace and restoring friendship between the two countries. But upon the question of the Caroline I consider the national honor to be deeply staked; and, in the present state of that question, we should do no more than we have already done to propitiate the British Government. In what position do we now stand, or at least appear to stand, before the world? Let me briefly advert to the circumstances. On the night of the 29th December, 1837, while the steamer Caroline lay moored at the wharf at Schlosser, under the protection of the American flag, an attack was made upon her by subjects of the British Government. Our territory was violated; murder was committed upon unarmed men by these cowardly and cruel wretches; and the captured vessel was towed out into the current of the Niagara, and, regardless alike of the living and the dead, was swept over the falls. This was an act of the most barbarous and presumptuous character, to which no independent nation could patiently submit without degradation and disgrace. We appealed to the British Government for redress, but appealed in vain. No answer was given to our complaint. Almost three years after

the occurrence, McLeod, who boasted that he had been one of the captors of the Caroline, was arrested in the State of New York, for the murder of the unfortunate Durfee. The British Government then interposed; but not to make any atonement for the violation of our territory and murder of our citizens. Far from it. Mr. Fox, in his letter to Mr. Webster of the 12th March, 1841, justifies the horrible act, demands the immediate release of McLeod, and entreats the President of the United States to take into his most serious consideration what must ensue in case the demand was not complied with. He held out a threat, sir, to the head of this nation. But I shall do no more at present than barely allude to these circumstances. The Government of the United States at once acceded to the demand of Mr. Fox, so far as they could; and, within four days after it was made, admitted to him that the detention of McLeod was wrong; that he ought to be released without trial; and that they would most cheerfully surrender him, if this were in their power;—they would direct a *nolle prosequi* to be entered at once, if the case were pending in a Federal court. Every thing which this Government could do, to propitiate British arrogance, was done upon that occasion, and done promptly. The previous decision of Mr. Van Buren's administration upon the same subject was instantly reversed. They had declared to Mr. Fox that the laws of the State of New York must take their course, and that before the tribunals of that State McLeod must be tried: but, with a haste beyond example, every determination of their predecessors was reversed by the present Administration, and regret was expressed that the prisoner could not be instantly released. How, then, stand the relations between the two countries at the present moment, in regard to this case? Have we not done every thing that we could to propitiate England? Have we not admitted that it would be a violation of the law of nations to try McLeod, and expressed regret that he could not be surrendered? On our part, we have conceded every thing, and done every thing in our power to satisfy England; while England has done nothing to satisfy us. All the injury and injustice have been on her side, and all the submission on ours. And shall we go still further, while the blood of Durfee is yet unatoned for and unavenged, and proceed to pass this bill—a bill which, I firmly believe, violates the Constitution—in order that we may deprive State courts of the power of trying, and, if found guilty, of punishing such crimes against State laws as that for which McLeod was indicted?

This is the question to be decided. Now there may be an apology in the Department of State from the British Government for the Caroline outrage, although I do not believe there is: but, until I know that they have made some satisfactory atonement, even if the power to pass this bill were clear, and its general policy undoubted, I, for one, should not at this time give it my vote. We have already done every thing on our part—more than the British Government could reasonably have required. Let them now take the initiative, and yield us satisfaction for the violation of our territory and the murder of our citizens; and then, and not till then, would I ever, under any circumstances, consent to pass such a law as the present, for the protection of future McLeods from trial and punishment.

Sir, I believe, as confidently as I do any fact of which I have not positive knowledge, that we are indebted, under Providence, for the peace which we now enjoy, to the great ability, the integrity, and firmness of the supreme court of the State of New York. If they had discharged McLeod upon the *habeas corpus*, and he had been surrendered to the British Government, then that Government must have promptly made atonement for the capture of the Caroline, or war—immediate war—would have been the inevitable consequence. This they would not have done, because they had justified this outrage in the very letter demanding McLeod. Under such circumstances, the spirit of the people of this country would have been roused to indignation, and they would have arisen in their majesty and power to avenge its wrongs. Instead of this result, (thanks to the supreme court of New York!) McLeod was not surrendered on the insolent demand of Great Britain; but he has been tried, and the honor of the country has thus been sustained. The question may now be considered as in equipoise between the two nations; and the people of the United States have not found it necessary to insist upon war for the purpose of preserving their national honor.

Had McLeod not been tried, war would have been inevitable, even from the terms of Mr. Webster's letter of the 24th April, 1841, which was, no doubt, written for the purpose of justifying to the American people all that had previously been done upon this question by the Administration.

The Senator from South Carolina [Mr. Preston] had said, on a former occasion, that if "Fox threatened, Webster defied back again:" and this he did "in good set terms." "All will see (says the Secretary) that if such things are allowed to occur,

they must lead to bloody and exasperated war." "This Republic is jealous of its rights; and, among others, and most especially, of the right of the absolute immunity of its territory against aggression from abroad; and these rights it is the duty and determination of this Government fully, and at all times, to maintain."

Now, if McLeod had been liberated before trial, upon the demand of the British Government, it would have been believed by the whole people of the United States, from his own confessions, that he was guilty of the murder with which he was charged. Instant satisfaction or instant war would then have been the cry; and Mr. Webster himself, from his own letter, would have been obliged to yield to this alternative.

The interposition of the supreme court of New York made it a kind of drawn battle between the two countries. It afforded a breathing spell to each; and the attention of both was directed to the trial of McLeod. This afforded time, and suspended all hostile operations until a change took place in the British ministry. This, I most sincerely believe, was an auspicious event for the peace of the two nations. I have considerable confidence that the present British ministry, Tory as it is, will settle the questions in dispute between us. Whatever may be the character of their internal administration, they are bold men, and not afraid to do us justice. The former ministry, which was in power when the McLeod question was first agitated, had not the cordial support of either of the great parties of that country. They were not trusted, either by the Tories or the Radicals. They occupied a middle ground, and retained their power as long as they did, in consequence of the mutual jealousy of these two great contending parties. With this ministry, it was "Good God—good devil." They had not the independence to do us justice against popular clamor. So far as we are concerned, give me a British administration having at its head Sir Robert Peel and the Duke of Wellington, infinitely before that of my Lord Melbourne and Lord Palmerston. Under all these circumstances, showing not only how fortunate it has proved that State courts possess jurisdiction over such offences as that of McLeod, but that no atonement has yet been made (so far as Congress is informed) for the Caroline outrage, no human power could induce me to vote for such a bill, even if our power to pass it were clear as the light of day. Let us know something more of the state of the negotiations between the two countries, in regard to this important

question; let us know that the national honor has been vindicated and maintained, before we proceed further to appease England, by changing our whole system of criminal law, as it was established by the fathers of the Constitution themselves, and under which we have prospered for more than half a century.

Having now proved, as I think conclusively, that even if we had the power to pass this bill, we ought not to exercise it, I shall attempt to prove, with as much brevity as possible, that we do not possess any such power. And here permit me to say, that the vote upon this bill, should it retain its present form, will be a strict party vote. I do not mean by a party vote, on the present occasion, those ephemeral parties which rise and sink with the ever-varying occasions that call them into being. I mean, that it will be a party vote in reference to the two great parties which have existed since the origin of the Government, and must endure until its end. It will be a vote on which will be arrayed, on the one side, all those Federalists (if you choose the name) who honestly believe that the powers of the Federal Government ought to be extended by a liberal construction of the Constitution; and, on the other side, those friends of State rights who believe, with equal honesty, that the powers of this Government are already too great, and ought to be confined within the limits of a strict construction. The Constitution itself gave birth to these two great parties. The one believed that the power of the central Government was too feeble to restrain the States within their proper orbits, and that they would "run lawless through the void;" and the other believed that the attraction of this Government would become so resistless as to draw the State Governments within its vortex, and thus produce consolidation. In order to increase the powers of the Federal Government, the one party sought, by ingenious constructions, to engraft upon the Constitution implied powers, at war both with its letter and its spirit. The other party contended that the instrument contained a plain grant of enumerated powers, delineated by the mighty hand of the people in such plain and legible characters that it required no technical constructions to reach their true meaning. From the very nature of such an enumeration of powers, all those were withheld which had not been expressly granted, or were not necessary, as means, to carry the granted powers into execution. Besides, one of the amendments to the Constitution expressly declares, in the spirit of wise jealousy which then watched over the rights of the States, that "the powers not dele-

gated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." It was a constitution of government for the masses, and was designed to be so plain that he who ran might read. It never was intended to be delivered over into the hands of subtle and ingenious lawyers, who, by implication and construction, might extract from it powers far more dangerous to State sovereignty than had ever entered into the conception of its framers.

Since the present Whig Administration came into power, the tendency of their measures, both legislative and executive, has been fearfully towards centralization. I desire to speak with perfect respect towards my Whig friends on this side of the house; but yet the truth, in my opinion, justifies this assertion. In this remark I do not confine myself to Tyler Whigs, or to any other sort of Whigs, but to the whole Whig party together. They have made, and attempted to make, longer strides towards consolidation, within the brief space of one short year, than we had ever witnessed before, since the commencement of the present century. Sir, within this brief space we have had two attempts on the part of Congress to establish a national bank; and each of them of such a character that, had success followed the effort, the Federal Government would have been indissolubly united with the money-power of the country, and the Federal Executive could have wielded this vast influence to accomplish its own purposes. I yield to the President all praise for his vetoes of these two bank bills; but he has involved himself in the same predicament with the other Whigs by recommending to Congress the establishment of a great exchequer Government bank. The plan for such a bank proposed by the Secretary of the Treasury is, in my opinion, more centralizing, more dangerous to liberty, and better calculated, if this be possible, to increase the influence of the Executive, than either of the bank bills which he vetoed. Within this brief period, the bill to distribute the proceeds of the public lands among the several States has become a law,—a law converting these States into mere stipendiaries on the General Government, and sinking them to the level of corporations, dependent upon Congress for their daily bread. Since the present Administration came into power, we have also enacted a bankrupt law—and such a law!—which places the relation of debtor and creditor, throughout the several States, under the jurisdiction of the Federal courts, and deprives these States of the power to regulate

this important domestic subject according to their own laws. I have recently seen a decision of Judge Story, in a newspaper, by which the attachment laws of Massachusetts are declared to be prostrated under our bankrupt system.

We have also witnessed a solemn declaration by the President, that the sovereign people of a State cannot, without the consent of the existing authorities, change their constitution of government; and if they should attempt to exercise this sacred and inalienable right, which was sanctified by the declaration of independence, and the example of the old States of this Union, that this would present a case of domestic violence, in the language of the Constitution of the United States, which would justify him in putting it down by force of arms. This would be to suppress an insurrection of the people against themselves, and to make war upon them for attempting to deprive their own servants of unjust powers and privileges in a peaceable and constitutional manner, unless the previous permission of these very servants were first obtained.

Again: we have received a bill from the House, which has just been referred to a committee of the Senate, prescribing, for the first time in our history, the manner in which the Legislatures of the sovereign States of the Union shall district their own territory for the election of their own Representatives to Congress. This most important question, vitally identified with State sovereignty, has thus been taken under the control of the Federal Government. But, above all, and over all, we have the bill before us, which, should it ever become a law, will essentially impair the right of the sovereign States to define and punish crimes committed against their own laws, and within their own territory, and transfer the trial of these crimes to the district judges of the United States, sitting at their chambers, and deciding both the law and the fact, without the agency of a jury. No doubt my Whig friends believe this to be the true policy of the country; but it is, nevertheless, a startling fact, that more measures directly tending towards a consolidation of all political power in the Federal Government have been originated during the brief period of the present Administration, than we had ever witnessed before, since the great civil revolution of 1800.

Mr. President, there has been no period when the enemies of our institutions abroad have been inspired with brighter hopes than at the present moment. And here permit me to refer to an article in the Foreign Quarterly Review of January last, for the

purpose of showing that the friends of centralization view the present aspect of our affairs with unsuppressed delight. The writer congratulates himself "that the growing importance of the monarchical party, and the consequently natural leaning to what was the parent State" in our country, would be a guaranty against war between the two nations. The McLeod affair, in his opinion, "has demonstrated the absurdity of separate and independent governments in the different States." The remedy for this is pronounced to be centralization; which, says the writer, "will be the first decided step towards monarchy. Let the people of the United States once feel the benefits of centralization, and they will also feel that centralization, without monarchy, has inconveniences which it would be desirable to remove." "Our opinion is, that fifty years—perhaps twenty—will not pass over without a monarchy; but that it will, in the first instance, be rather the semblance than the reality of monarchy; that, by degrees, however, America will settle down into a sober monarchical, and at the same time constitutional, State."

And all this arises from the fact that Mr. Webster was not able to take McLeod from the custody of the supreme court of New York, and surrender him, without trial, to the British Government. The States are, therefore, to be deprived of the jurisdiction over crimes committed within their own territory, and centralization is to be thus effected. This bill, however unintentionally, comes precisely within the range of the foreign reviewer's prediction. But there is another instructive passage in this Review, which I ought not to omit. It is as follows:

> We have heard well-informed Americans (and, amongst them, more than one diplomatist at foreign courts) declare that the evils of the present system are so strongly felt, that monarchy is practicable, even without the intermediate step of centralization.

I wish we had such foreign diplomatists before the Senate in executive session. I think we should make short work with them. If any such exist, they must be men who have lived so long abroad as to have forgotten the charms of liberty in the splendors of a monarchy, nourished by the toils and groans of subject millions. Never was there a period when we ought to recur with more heartfelt devotion to the republican principles of our ancestors, and derive instruction from this pure fountain. Events are now in progress which render such a recurrence even more necessary than those which existed at the date of the famous

Virginia resolutions of 1798. I shall read one of these to the Senate, as strictly applicable to the present times. It is as follows:

Resolved, That this General Assembly doth also express its deep regret that a spirit has, in sundry instances, been manifested by the Federal Government to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases (which, having been copied from the very limited grant of powers in the former articles of confederation, were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases, and so as to consolidate the States by degrees into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present republican system of the United States into an absolute, or, at best, a mixed monarchy.

Let us, then, under the influence of this revered authority, proceed to discuss the constitutional questions involved in the present bill.

And I shall, in the first place, contend that we do not possess the power to pass this bill, because the Constitution does not authorize Congress to deprive the States of jurisdiction over the trial and punishment of crimes committed against their own laws, and to transfer the trial and punishment of these crimes from the State into the Federal courts. And here permit me to ask, what would have been thought by the men who framed the Constitution, if any member of the convention had predicted that a serious attempt would be made in Congress to deprive the States of jurisdiction over crimes against their own laws, whenever the accused should allege that the criminal act was committed under color of Federal authority? What would then have been said of such a prediction? It would have been considered as the idle dream of some jealous State-rights enthusiast. It might have been asked, have not the States always tried and punished crimes against their own laws, as an essential element of self-protection? and where is the clause in the Constitution which deprives them of this sovereign power, or delegates it to the United States? I now demand of the advocates of this bill, where is any such clause to be found? From the very nature of the two Governments, State and Federal—from the essential elements of their separate existence, it is impossible that crimes committed against the one shall be tried and punished by the courts of the other. Can a Federal judge, in a Federal court, pronounce sentence of death against a criminal for murder, in violation of State laws? Could the President pardon the murderer? No, sir, no: this will

not, cannot, be pretended. It is absurd to contend that you can deprive the States of their right to try the criminal, when they alone can punish or pardon the crime. The power to punish or pardon necessarily involves the power to try. The two things are, in their nature, inseparable. They cannot be divided.

When the Constitution was framed, the ingenious device had never been conceived of splitting up and dividing the same criminal prosecution, by conferring on the district judge of the United States the power, in the first instance, of trying and acquitting the accused; but, if he could not be acquitted, then the power of remanding him to the State courts for conviction and punishment. From the very beginning, the State courts have always exercised, exclusively, the sovereign power of trying, as well as of punishing, all offences of a criminal nature committed against their own laws. I ask again, what constitutional provision has deprived them of this elementary power? Where is the clause which will enable you to arrest the jurisdiction of a State court in criminal cases, at the very threshold, after it has once constitutionally attached, and transfer the trial of the accused, either for acquittal or conviction, to a Federal judge? Even Judge Story himself says it cannot be done. In the case of Martin *vs.* Hunter's lessee, (3 Condensed Reports, 592,) he asks: "Suppose an indictment for a crime in a State court, and the defendant shall allege, in his defence, that the crime was created by an *ex post facto* act of the State: *must not the State court, in the exercise of a jurisdiction which has already rightfully attached, have a right to pronounce on the validity and sufficiency of the defence?*"

In the opinion of the same learned judge, in the same case, (page 597,) the difficulty of removing a criminal case from a State to a Federal court, before trial, is admitted to be insurmountable. And why? Because you could not enforce a rule against a sovereign State to appear for trial before a Federal judge. After trial and judgment, the Supreme court can act upon the record of the State court, as it has always done—not upon the State itself—by bringing this record before them on a writ of error. In speaking upon this subject, Judge Story uses the following language. "The remedy, too, of removal of suits [before judgment] would be utterly inadequate to the purposes of the Constitution, if it could only act on the parties, and not upon the State courts. *In respect to criminal prosecutions, the difficulty seems admitted to be insurmountable;* and, in respect to

civil suits, there would, in many cases, be rights without corresponding remedies. If State courts should deny the constitutionality of the authority to remove suits from their cognizance, in what manner could they be compelled to relinquish the jurisdiction? *In respect to criminal cases, there would at once be an end of all control,* and the State decisions would be paramount to the Constitution."

It is palpable as light that the Federal courts cannot try an offence which they cannot punish. They cannot try an offence which the President cannot pardon. The Senator from Georgia, I feel confident, will never contend that we possess the power, under the Constitution, to enable these courts to convict and punish for crimes committed against the States; and if he cannot establish this proposition, he must abandon the whole argument. You are not permitted to accomplish indirectly that which you cannot do directly.

This bill has not attempted to remove the punishment of the crime into the Federal courts. This would have been too monstrous. It has done, however, that which will be far more insulting to State sovereignty. It, in effect, declares that we cannot intrust the trial of the offence in the first instance to a court and jury of the State; and therefore a Federal judge, without the intervention of a jury, shall, at the threshold, examine into the merits of the cause, and acquit the prisoner if he thinks proper. Meanwhile the indictment and record are left behind in the State court, and the prisoner alone is removed upon the *habeas corpus.* Imagine the chief justice of Pennsylvania calling over the criminal list, and continuing the trial of such an indictment from term to term, until it shall be ascertained whether the district judge will acquit the prisoner. The Federal judge will, under this bill, possess the power of acquittal; but no Congress will ever attempt to confer upon him that of conviction. If he acquits, it will be marked upon the record of the State court, that a "final judgment of discharge" has been rendered by the Federal judge; and there the matter will end. If he remands the defendant, then the State courts will be graciously permitted to convict and hang him, if they think proper.

Sir, such a bill, if you can enact it into a law, will produce collision—dangerous collision—between the Federal and State authorities; and you will have to enforce the mandates of the district judge by the armed power of the Executive. There are cases in which the States will not patiently submit to be stripped

of their inherent jurisdiction over criminals. I have already adverted to one of this description. Let me present the case in another aspect.

I shall contend, in the second place, that no criminal case over which the States had exclusive jurisdiction before the existence of the Constitution, and which must now originate in the courts of the States, can be removed to the Supreme Court of the United States, either directly or indirectly, in whole or in part, until final judgment has been rendered; because over such cases the Supreme Court can only exercise appellate jurisdiction. That such a cause cannot be directly removed from the State court to the Supreme Court, is too clear to require argument. The Supreme Court, under the Constitution, can exercise no original jurisdiction whatever, except in cases "affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party." In all other cases, embracing those "arising under this Constitution, the laws of the United States, and the treaties made or which shall be made under their authority," its jurisdiction must be appellate. I presume it will not be attempted, on the present occasion, to obliterate the broad line of distinction which the Constitution has, for the wisest purposes, drawn between original and appellate jurisdiction, by contending that appellate jurisdiction has any other meaning than its well-known and popular signification—which is, the power of a superior court to affirm or reverse some final judgment or decree rendered by an inferior court. To place any other construction upon these terms, would be, in effect, to give to the Supreme Court original jurisdiction in all cases whatever under the Constitution, by removing causes from inferior courts immediately after their commencement, and before the inferior court had made any decision which could be reviewed. The framers of the Constitution most certainly never had any such intention when they so carefully distinguished between the original and appellate jurisdiction of the Supreme Court. And that court has decided that Congress cannot confer on it any other or further original jurisdiction than what has been expressly granted by the Constitution. (3 Story's Commentaries, page 573.)

This bill is an attempt to do that indirectly which has been expressly forbidden to be done directly. If an individual were bound over to appear before the district or circuit court of the United States for an offence appropriately within its jurisdiction, it is very certain that Congress could not confer upon the Supreme

Court the power to remove this cause, before trial, from the inferior court, and to try it themselves. And why? Because such a proceeding would be the exercise of original jurisdiction, which the Constitution forbids. It is equally clear, for a similar reason, that no writ of *habeas corpus* could issue directly from the Supreme Court to the court of any State, to remove a criminal prosecution before trial. But the present bill attempts to evade the Constitution, and to accomplish the same object in a circuitous manner. And how is this to be done? In the first place, the cause is sent from the State court, before its trial, to a district judge of the United States; and from his decision an appeal is granted to the circuit court; and from thence, by a second appeal, it finally reaches the Supreme Court. Now, although this may be the exercise of appellate jurisdiction, so far as the circuit court of the United States is concerned, yet it is clearly the exercise of original jurisdiction in regard to the State court from which the cause was first removed. And why? Because that court has never tried the cause, and has never rendered any judgment, nor performed any judicial act from which an appeal could be taken. The Supreme Court will, in fact, by means of this ingenious device, assume original jurisdiction over the cause, which commenced in the State court, and finally decide it. No, sir; no. This can never be done, without at least violating the spirit of the Constitution. The State court must first have spent its authority in the trial and conviction of the accused, before an appeal can be taken, either directly or indirectly, into the Supreme Court, by the perversion of the writ of *habeas corpus,* or in any other manner.

In the third place, let us now come to the cases similar to that of McLeod, for which this bill provides; and I shall contend that, in regard to them, there is not even a decent pretext, under the Constitution, for conferring upon the Federal judiciary, whether supreme or subordinate, any jurisdiction whatever, either original or appellate, over such cases. To confer such a jurisdiction over all cases which may arise in the State courts involving the law of nations, or the order of a foreign sovereign, would be a mere palpable interpolation of the Constitution. This is strong language; but, in my opinion, it is strictly true. Whence does the Senator derive this power? The enumeration of the grants of judicial power, under the Constitution, is plain and explicit. So far as it can by possibility relate to the present subject, it is expressly confined to three classes of cases: first, those "arising

under the Constitution;" second, those "arising under the laws of the United States;" and, third, those "arising under the treaties made, or which shall be made, under their authority." But it is now proposed to interpolate two other classes of cases, namely: fourth, those arising under the law of nations; and, fifth, those arising under the order of a foreign sovereign. This would be to make a new constitution, not to interpret an old one. By what process of reasoning can it be shown that the authority of the Federal courts may be extended to cases arising under the law of nations, and under the order of a foreign sovereign, and that these two new sources of power shall be added to the three old ones enumerated in the text of the Constitution? What is the argument to which the Senator from Georgia is driven, in order to maintain this manifest interpolation of the Constitution? He asks, is not the law of nations a part of the law of the United States? I answer, yes; most assuredly it is. The United States would not be a member of the family of civilized nations if we were not bound by the obligations of the law of nations. I ask the Senator, in turn, is not the law of nations as much a part of the law of the State of New York as it is of the United States? To deny this, would be to exclude New York from the pale of civilization altogether. To what, then, does the Senator's argument amount? To nothing more nor less than this: that whenever the merits of a case on trial before any Federal court involve questions under the law of nations, these questions will be decided by that law; and, in like manner, whenever questions arise in State courts, of a similar character, the law of nations must equally guide State judges in their decision. But this is far from the position which the Senator is bound to sustain in order to maintain his argument. He must prove that in all cases, civil and criminal, in which the State courts, under all other aspects, would have exclusive jurisdiction over the cause, they might be deprived of it the very moment it presented any question under the law of nations; and the cause might then be transferred to the Federal courts. This would, indeed, be an herculean task. It can never be performed whilst the judicial power of the United States shall be confined to cases arising under the Constitution, the laws, (which it will not be denied mean the acts of Congress,) and the treaties.

I would ask the Senator, are not the laws of the several States as much a part of the law of the United States, as is the law of nations? and are not Federal judges equally bound to

apply these State laws in the decision of all causes constitutionally brought before them, to which they properly relate? None will deny this proposition. The Senator might then contend, with precisely the same propriety, that we might confer upon the Federal courts jurisdiction over all cases arising under State laws; because the law of nations is no more a part of the code of the United States, than are the laws of the States. Again: the laws of foreign countries are administered by State courts, when actions are brought to enforce contracts made in those countries; and so they are, under similar circumstances, in the courts of the United States. As well might the Senator contend that all such cases arising in the State courts might be transferred to the Federal judiciary. Whenever you depart from the plain language of the Constitution, you involve yourself in a labyrinth of difficulties. We might proceed still further, and say that the common law of England is the rule of decision in the courts of the United States, in all cases to which it applies; and so it is equally in the State courts; and that, therefore, all such cases arising in the State courts, to be decided by the rules of the common law, might be removed, in the first instance, to be tried, or, after final judgment, to be affirmed or reversed, by the Federal judiciary.

The true rule is, that in all cases properly cognisable before the Federal courts under the Constitution, wherever it is proper to apply the law of nations as a rule of decision, they have the power to do so; but no further. For example: this may be done, whenever a treaty is to be construed—whenever a question arises affecting public ministers, in cases of admiralty and maritime jurisdiction, and in the trial of piracy and other offences against the law of nations. But where the crime committed is against the laws of one of the States, and not against the law of nations, and, in the defence, some principle of the law of nations is incidentally involved which does not involve the construction of a treaty, or of any other grant of power in the Constitution, then the jurisdiction over this offence must forever remain with the States. Such was the case of McLeod. The alleged murder was committed against the laws of New York; and under these laws alone could it be punished. The defence was, that the capture of the Caroline was an act of war on the part of Great Britain against the United States, and that those engaged in it were protected under the laws of war. This would have been a valid defence, if war had existed between the two countries. The

supreme court of New York decided—and most justly decided—that, in point of fact, war did not exist; and, therefore, they tried McLeod. No question here arose, either under the Constitution, a treaty, or act of Congress; and, therefore, the case could not, under the Constitution, have been transferred to the courts of the United States.

But the Senator, in the second place, proceeds still further, and contends that the Federal Government has exclusive jurisdiction over the foreign relations of the country; that the judicial powers of the Government are commensurate with its duties; that it is a constitutional duty to protect foreigners; that this duty is innate in the Constitution; and that, therefore, Congress possess the power to pass this bill for the protection of foreigners. I believe I have stated his argument fairly. And what is it, but the exploded doctrine of "the general welfare" revived? If this argument be well founded, it would justify a construction of the Constitution under which Congress may assume to itself the power to pass all laws which, in their opinion, may promote the general welfare. The enumeration of specific powers would mean nothing, and we are at once converted into a consolidated Government.

If we were now about to form a new constitution, then such arguments might have some effect. It might then be contended that a clause ought to be inserted, conferring on the Federal judiciary the trial and punishment of all crimes committed by any foreigner against the laws of the several States. But, unfortunately for the Senator's argument, we are now about to expound an old written constitution, not to frame a new one. My answer to it, therefore, is—this Government has precisely the powers over our foreign relations enumerated in the Constitution, and no more; and the Federal judiciary possesses precisely the powers granted to it by the Constitution, and no more. We have the power to conclude treaties—to send and receive public ministers—to make war, and to make peace—and to regulate foreign commerce. These powers are, as they ought to have been, extensive. These enumerated powers have all been granted; and whatever has not been specifically granted, (to use the language of the Constitution,) "is reserved to the States respectively, or the people." And where, I ask, has the power been granted to the Federal courts to try and punish murder and other crimes committed by foreigners against the laws of the States? Such a power never was granted, and, even if the attempt had

been made to obtain it, never would have been granted by the States.

That any such power has been expressly delegated, has not been pretended. From what express power, then, does the Senator attempt to imply this alarming power,—that if a foreigner comes within the limits of a sovereign State, and commits a crime in violation of its laws and against its peace and dignity, this crime shall not be tried and punished by State laws and under State authority, but be transferred to the Federal courts? He says that this Government possess the power to make war and to conclude treaties of peace. This is granted. His inference is, that, because we possess this power to make peace, therefore we possess the power to pass all such laws as may be necessary to preserve peace and prevent war; and as the protection of foreigners by the Federal Government may tend to preserve a good understanding with their sovereigns, that therefore the State courts shall be deprived of jurisdiction over offences committed by foreigners, and the trial and punishment of these offences shall be transferred to the Federal courts. This mode of construing the Constitution is the doctrine of "the general welfare" revived and extended. Let it once be established, and we shall have no difficulty in extracting any power from the specific powers granted, which we desire to exercise. For example: suppose Congress wish to establish a general system of education throughout the country; they can imply this power from the express power which they possess to punish crimes committed against the United States. What would be the form of the syllogism? Congress have power to punish crimes, therefore Congress have power to prevent their commission. Now, the best mode of preventing crimes is to educate the people, and instruct them in their moral and religious duties; therefore, Congress possess power to establish a general system of education. We have the power to protect foreigners in the Federal courts from the State authorities, because we have the power to make peace! Establish this construction, and every limitation of constitutional power is at once annihilated. This construction will open a fountain of power so broad and so deep, that the streams which will flow from it must necessarily overwhelm every remaining vestige of State rights.

We must protect foreigners from the jurisdiction of State courts, in order to preserve peace with their sovereigns! A pious apostle of abolition, who is a subject of Her Majesty of England,

coming directly from the world's convention, enters the State of South Carolina, and excites an insurrection among the slaves. It would greatly promote the peace and security of the people of that State to try, convict, and hang such a criminal, who had excited the mad passions of the slaves to indiscriminate slaughter. This he would richly deserve. But the criminal in this case owes allegiance to Queen Victoria, who might be dissatisfied with such a punishment. What then? In order to preserve the peace and harmony existing between the two nations, the power of the State to punish this criminal must be arrested, and he must be transferred to the Federal Government, where a *nolle prosequi* of the Attorney General of the United States might relieve him before trial, or the President's pardon set him at liberty afterwards. Such fanciful constructions of the Constitution will never be sustained by the good sense and jealous patriotism of the mass of the people. They will always appeal "to the law and to the testimony," and will confine the powers of the General Government to what they find plainly written there.

It is our duty, beyond a doubt, to afford just protection to all foreigners, as well as to our own citizens; and this has always been done heretofore by the State courts. Gentlemen speak of the necessity of protecting foreigners in the Federal courts. Protecting foreigners—against whom? Against the sovereign States of this Union, as if their judicial tribunals were disposed to deprive them of that just protection to which they are entitled. Are not the supreme courts of the several States composed of men as enlightened, as humane, and as patriotic, as the judges who compose the Federal judiciary? And yet protection against these courts is spoken of, as though they were composed of cannibals. Foreign nations have no reason whatever to complain of the existing mode of extending protection to foreigners, when on their trial for crimes; nor ought Great Britain to expect that we would change our institutions to please her fancy. I blame the present administration for not having asserted and maintained this principle. The answer which ought to have been given to Mr. Fox, when he demanded the immediate and unconditional surrender of McLeod, was: Ours is a complex system of Government; but, under it, we have hitherto faithfully performed all our duties to foreign nations. The Constitution has intrusted a portion of the judicial power to the Federal Government; and that which has not been granted to it is reserved to the States. Among their reserved powers is that of trying, before their

own judicial tribunals, offences against their own laws, like that with which McLeod is charged. He will have the benefit of every defence before the State court of New York that he could enjoy before a circuit court of the United States; and the legal learning, sound judgment, and intelligence of the supreme court of New York are universally admitted. Should he be convicted and sentenced, and should any extraordinary circumstances exist in his case, rendering it proper to grant him a pardon, we may as confidently rely upon the Executive of that State to grant it, as we could rely upon the President of the United States. State judges and State governors are as patriotic, and as anxious to preserve the peace of the country, upon honorable terms, as is the Federal Government. But, at all events, our constitution of government has for more than fifty years been spread before the nations of the earth, and under it we have performed all our relative duties towards them; and no single nation can now expect us to change it, such as it is, at her bidding.

The Senator from Georgia has cited the case of Holmes *vs.* Jennison, (14 Peters, 540,) in support of his argument. The facts were these: Holmes had been indicted for murder in Canada, and had fled from justice into the State of Vermont. Jennison, the Governor of that State, issued his warrant to the sheriff of the proper county, commanding that officer to deliver him up to the agent of Canada on the frontier. Holmes obtained a *habeas corpus* from the supreme court of Vermont, which, after hearing the case, refused to release the prisoner, and decided that he should be remanded. A writ of error was sued out from the Supreme Court of the United States, for the purpose of reversing this decision; and the question raised upon the argument was, whether the State of Vermont had the power of sending fugitives from criminal justice out of its limits, to be tried where the crime had been committed.

From this statement of the case, it must be manifest to all that it is not in point on the present argument, and would be very far from sanctioning the interpretation of the Constitution for which the Senator from Georgia has contended. Thank Heaven, however, the case of Holmes and Jennison is no case—I mean no decided case—at all. The court were equally divided in opinion. Four of the judges, Taney, Story, McLean, and Wayne, were in favor of assuming jurisdiction and discharging Holmes; whilst Thompson, Baldwin, Barbour, and Catron, held the contrary opinion. Judge McKinley was absent.

The Chief Justice, and three of his associates, denied to a sovereign State of this Union the power of sending a murderer beyond its limits to take his trial in a neighboring province, notwithstanding there was no treaty of the United States in existence which forbade the exercise of this power. Under the circumstances of the case, well might the able, the enlightened, the patriotic Judge Baldwin exclaim, in his own eloquent and forcible language, (page 618:) "It is but a poor and meagre remnant of the once sovereign power of the States—a miserable shred and patch of independence which the Constitution has not taken from them—if, in the regulation of its internal police, State sovereignty has become so shorn of authority as to be competent only to exclude paupers, who may be a burden on the pockets of its citizens; unsound, infectious articles, or diseases, which may affect their bodily health; *and utterly powerless to exclude those moral ulcers on the body politic, which corrupt its vitals, and demoralize its members.*"

I have always entertained the highest respect for the present distinguished Chief Justice of the United States; but I must say, and I am sorry in my very heart to say it, that some portions of his opinion, in this case, are latitudinous and centralizing beyond anything I have ever read, in any other judicial opinion. I refer more particularly to pages 569 and 570.

He attempted to take jurisdiction over this case, not because the order of the supreme court of Vermont, remanding Holmes, had violated any treaty between the United States and England;—this he could not have done, because no such treaty existed. Overleaping altogether the specific grant of powers enumerated in the Constitution, he assumed the broad and general principle maintained by the Senator from Georgia, that the Supreme Court of the United States might assume jurisdiction, because, to use his own language, "all the powers which relate to our foreign intercourse are confided to the General Government." Nay, sir, he goes still further in his reasoning, if this be possible. He says: True it is, that no treaty exists between this country and Great Britain regulating the delivery of fugitives from justice between the two countries; but such a treaty may possibly exist hereafter. And, because of this contingent possibility, he assumes jurisdiction over the decision of the supreme court of Vermont, remanding this fugitive from justice to the custody of the State sheriff. According to this reasoning, the Federal judiciary may not only carry existing treaties into

execution, but may assume jurisdiction, to the exclusion of the State courts, over all subjects concerning which a treaty may hereafter, by possibility, be made with any foreign nation. Now, the treaty-making power is one of the most extensive in the whole Constitution. Its limits have not been defined, and they are, probably, not capable of definition. Let the Supreme Court of the United States, then, establish the principle that they will assume jurisdiction over all causes, civil and criminal, the subject-matter of which may, by possibility, be regulated hereafter by treaty stipulations; and they may, at once, usurp almost all the judicial powers of the States. Instead of the judicial power of the United States being confined, as it is by the Constitution, to cases arising under the Constitution, the laws, and the treaties of the United States actually in existence, under the sanction of the President and Senate, it will be extended to all cases which the judges may fancy will hereafter be embraced by treaties, in all future time. This would be centralization, to all intents and purposes.

But I fear that the patience of the Senate is already almost exhausted, and I shall therefore hasten to a conclusion. My last position is, that if this bill should pass, the inconveniences resulting from it along the Canada frontier will be intolerable. Mr. Webster, in his letter to Mr. Fox, says that the line between the United States and Canada is long enough to divide Europe in halves. Domestic troubles and insurrections must inevitably exist in that province, from time to time; because, sooner or later, from the very nature of things, the North American provinces of the British Empire will declare and maintain their independence of the mother country. Whenever such troubles do exist, marauding parties will cross the line for the purpose of rapine and plunder, under pretence that they are actuated by a desire to serve their sovereign. There will never be wanting Colonel McNabs to issue the order, or Captain Drews to execute it. Should the present bill pass, we shall hereafter witness many Caroline expeditions; because those engaged in them will then be encouraged to hope for immunity from punishment. If they escape in the first instance beyond the limits of the United States, it is very well: if they should be arrested within the limits of the State whose territory they have violated, all they have to do is to apply to a district judge of the court of the United States, and they are safe from further prosecution, for at least two years to come. In the mean time, long after the fact, (as was the case of

McLeod,) the British Government may be induced to sanction their conduct; and then, according to the opinion of the present Administration, it will present a case of war, and they must be delivered up under the laws of nations. In the mean time, this will encourage other marauders to invade our shores. Let the law remain as it now is, and I venture to say we shall not soon again be troubled with such incursions. When you arrest any such assailant, who has wilfully taken the life of one of your citizens, mercy teaches you that you ought to hang him for murder, as an example to deter all others from offending in the same manner. If this were your known determination, we should never more be visited by such lawless expeditions. We should thus save our own citizens from murder and rapine, and many exciting causes of war between the two nations would thus be prevented. The course which the opponents of this bill propose to pursue, is that of true humanity. Criminal justice ought to be administered with as much rapidity as may be consistent with the rights of the accused. Punishment ought to tread closely upon the heels of crime, if you wish to deter others by the example. If, therefore, you possessed the power to interpolate into the Constitution of the United States jurisdiction over all cases arising under the law of nations and the orders of a foreign sovereign, as distinct sources of Federal judicial power, you ought never to perform the act. And even if you should, you ought still to suffer the courts of the States to try the offenders in the first instance, and then permit an appeal to be taken to the Supreme Court after final judgment, according to the provisions of the old judicial act. While you would thus protect the criminal in all his rights, you would bring him to much more speedy and certain justice.

This bill, from any point in which I can view it, appears to me to be a plain and palpable violation of the Constitution. It is inconsistent with all the practice of the Government, under the judicial act, for more than half a century; and no evil consequences, to my knowledge, have ever resulted from such a practice. I sincerely hope it never may become a law.

REMARKS, MAY 12, 1842,

ON GENERAL JACKSON'S FINE.[1]

A debate took place in the Senate on the bill to indemnify General Jackson for the fine of a thousand dollars imposed on him by Judge Hall, of Louisiana, in 1815.

Mr. Buchanan said he did not think this was a case which ought to produce any party excitement. He did not intend, in the very few extemporaneous remarks which he should offer, to say any thing calculated to arouse party feelings. He believed most firmly that the Senator from Kentucky would, as he had stated, rejoice to be able to vote for the bill. And he thought that if the Judiciary Committee had procured the necessary testimony, and had gone into an examination of the merits of the case, their report would have been favorable. It had been said that General Jackson had not made any application for the repayment of the money which he paid under the sentence of the court, and that therefore the Senate ought not to pass the bill. This could be no sufficient answer; because, if Congress themselves were impressed with a belief of the injustice of the fine, they ought to act upon their own mere motion, and render justice where justice was due. But, though General Jackson himself had not asked that the fine might be refunded to him, this request had been urged in the most earnest manner by the Legislature of Ohio, as well as by numerous petitions from the city and county of Philadelphia. The subject had thus been brought legitimately before Congress, and it had become necessary that they should act upon it. This objection then, he thought, was sufficiently answered.

Well, sir, (continued Mr. Buchanan,) that General Jackson paid the money, we have the evidence of his own declaration, in a letter to the Senator from Missouri, [Mr. Linn.] When the fine was imposed, one of the counsel of General Jackson [Mr. Duncan] tendered his own check to the clerk of the court for the amount; which was accepted, and the General immediately sent his aide-de-camp to his quarters for the money, which was deposited in bank in time to meet the check. The ladies of New Orleans, it is true, immediately raised the amount; but General Jackson refused to receive it, and requested that the money might be applied to the relief of the widows and orphans of that city

[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 362–363, 365–366.

who had been made such in its defence. With that noble disinterestedness which belongs to his character, at the moment when this tribute of respect and gratitude was offered to him by the ladies for having so gallantly defended them and their homes from rapine and pillage, he thought not of himself, but transferred the sum to the widows and orphans of his companions in arms who had fallen in battle. Now, what is the main fact in this case upon which it must be decided? Was General Jackson justifiable in declaring martial law at New Orleans under the then existing circumstances? Strictly speaking, we admit he had no constitutional right to make this declaration; but its absolute necessity for the purpose of defending the place amply justified the act. It was indispensable to the safety of New Orleans that it should be converted into a military camp. I do not think there is any person who at this day entertains a doubt that, if this had not been done, the city would have been captured by the enemy, or that there is any one who will say that General Jackson did wrong in declaring martial law. Then who was to decide when martial law should cease? Was it Judge Hall, or was it the commanding general? Was the Judge the proper person to determine this question, or was it he who was responsible for the safety of the city?

Now, what was the state of affairs when the General refused to obey the *habeas corpus* of the Judge, and sent him out of the city? It is true, I believe, that, a few days before the occurrence of the alleged contempt, a report had been brought to New Orleans from the British fleet, that a treaty of peace had been concluded at Ghent; but this was altogether unofficial. There was no official information upon the subject. Was this, then, sufficient to induce the General to relax his efforts for the security of the place? Suppose it had turned out to be a false rumor—a mere *ruse de guerre*—and New Orleans had fallen in consequence: as General Jackson himself says, his head ought to have been the forfeit. The rumor had an injurious effect upon the discipline of the troops; they became disaffected, and some of them began to retire to their homes. The defeated army was still four times the number of the regular troops under the command of General Jackson, and the time of the service of the militia was about to expire. This would, then, have been the very moment for the enemy to strike, and to regain their lost laurels in the eyes of the country they were serving. The editor of a Louisiana gazette, at this moment, published an article

directly calculated to encourage the enemy, to produce mutiny among the troops and dissatisfaction among the French citizens; and he was arrested, by the order of General Jackson, and thus prevented from doing further mischief. In this situation of affairs, Judge Hall issued his *habeas corpus* to take that individual out of the custody of the military authority, and restore him to the liberty of publishing what he pleased. General Jackson refused to surrender the man, and sent the Judge himself out of the camp.

Well, sir, the question again recurs, whether Judge Hall was the person to decide whether martial law should cease or not. If he were, this would be putting the safety of the city entirely in his hands, although he was not in any degree responsible. Three days afterwards, official information of the peace arrived; and martial law immediately ceased, by proclamation of the General. Then it was that this extraordinary proceeding for contempt commenced on the part of the Judge. If, then, the necessity of the case justified the declaration of martial law—and this must be admitted by all—what followed as a necessary consequence? Why, that the exercise of the civil authority should cease, at least so far as was necessary to the defence of the city. If Judge Hall could have interfered with the military operations of the General, by writs of *habeas corpus,*—if he could, in this manner, have released a man like Louallier, who had been publishing articles which, in their nature, invited the enemy to make a new attack upon the city, whilst they were calculated to excite sedition and discontent among the troops, then martial law would have been declared in vain. The same necessity, therefore, which justified martial law equally justified its execution, in despite of all obstacles which might be interposed by any civil magistrate. All good citizens, magistrates as well as others, ought to have submitted to this stern necessity.

And yet General Jackson has been fined a thousand dollars, because he would not permit Judge Hall to abolish martial law. In my opinion, the General was completely justified in retaining Louallier, and sending Judge Hall out of the city, to prevent him from issuing other writs of *habeas corpus,* and from interfering further with its defence.

After martial law had ceased, Judge Hall, under the influence of excited and impassioned feelings, resulting from what he believed to be a personal injury, brought the General before him for contempt. The charges against him were, his refusal to obey

the writ of *habeas corpus,* and his expulsion of the Judge from the camp. It appears, from the declaratory law which passed Congress unanimously after the trial of Judge Peck, that this expulsion could under no circumstances be considered a contempt of court. The only proceeding which could have been instituted against the General for this cause was an indictment for assault and battery and false imprisonment, and a civil action for damages.

What a spectacle did this court present! There sat an angry judge to decide his own cause, and to avenge real or supposed insults against himself; and here stood the victor and hero of New Orleans, as a criminal at the bar. He was not even permitted to utter a word in his own defence. Meanwhile, the enthusiasm of the people whose beautiful city he had saved from the dreadful fate to which it had been destined by the enemy, knew no bounds. Even the venerable prelate of that city, at the head of his flock, had poured out their thanks to the General as their saviour and deliverer under Almighty God. The court-house was crowded to excess by this excited and grateful people, who witnessed the sentence of the judge, inflicting a fine of one thousand dollars upon the man to whom they owed their safety. He bore the indignity with patience and submission, and paid the fine without a murmur. Instead of receiving a noble recompense for his glorious defence of New Orleans, which would have been granted by his country, did not our institutions wisely forbid such grants, he was fined a thousand dollars, which has gone into the public Treasury. And the question now is: Shall that country retain or refund the money? The General believes that while this money is retained a blot remains upon his character; and it is not for the sake of the paltry sum, but to remove the blot, that he desires the passage of the present bill. But may it not be said with more justice, that a deep stain will remain upon the character of his country, until it is wiped away by refunding the whole sum, principal and interest, to the uttermost farthing? Let justice be done to this venerable man before he leaves us forever. He has eloquently stated, in his letter to the Senator from Missouri, [Mr. Benton,] that the sands of his life have nearly run; and shall we permit him to go down to the grave before we perform this act of justice to his character? I trust not.

I am more mistaken than I have ever been, if there will not be one enthusiastic and united feeling throughout the country, without distinction of party, in favor of refunding this money.

If money merely were the object, not the justice of Congress, and the fine had amounted to a hundred thousand, instead of a thousand dollars, the whole country would now follow the noble example of the ladies of New Orleans, and subscribe the amount in four and twenty hours. Nay, I am greatly mistaken in my fair countrywomen if it would not be subscribed by a hundred thousand ladies, who would each consider it a privilege to contribute their dollar. But it is justice to his character, and not money, which the General desires. If not now, ere long this will be rendered to him, as certainly as that the American people are just.

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Mr. Conrad wished to make a few remarks; but as the hour was late, he would move to lay the subject on the table for the present, to enable the Senate to go into executive session.

Mr. Preston observed that the regular way would be to pass it over informally, and, with the Senator's leave, [Mr. Conrad's] he would move to go into executive session.

Mr. Buchanan had a word or two to say in explanation; and with the permission of both Senators, [Mr. Conrad and Mr. Preston] he would like to do it now, so as not to interfere with the right of the Senator from Louisiana to the floor when the subject should come up again.

The motion to go into executive session was then withdrawn, and

Mr. Buchanan proceeded. He believed, after all, that the Senator from Georgia [Mr. Berrien] and himself would come together, and vote together on this bill. His object in rising now for explanation was not to provoke debate, and thereby prolong the discussion, but to promote unanimity in the attainment of an object which all professed to desire. The Senator from Georgia, at any rate, evinced that desire, for he had come more than half way, by admitting very frankly that General Jackson was perfectly justified by the circumstances in declaring martial law. Perhaps he was stating the admission too strongly in using the word "justifiable;" but to avoid all cavil, he would correct himself and say "excusable,"—[Mr. Berrien observed, that was his meaning—it was his personal opinion;]—and that, under all the circumstances, as there was nothing to be condemned, but every thing to be approved by the country in the measure adopted by General Jackson, and in the measure consequent on it, of refusing compliance with Judge Hall's writ of

habeas corpus, the fine inflicted on him for this refusal ought, in common justice, to be restored by the country. Here, then, was a proposition on which the Senator admitted all could fairly and honorably unite. On this, then, he grounded his assertion that the Senator and himself were coming together, and would, perhaps, after all, vote together.

But the Senator says that, although all this may be true, yet Judge Hall was bound to administer the law; and on an appeal to him to that effect, he was bound to issue his writ of *habeas corpus.* Now, here the Senator and himself were at issue; for he denied the premises, even on the Senator's own showing. If General Jackson did no more than his duty in declaring martial law, the moment the declaration was made, the official functions of Judge Hall ceased with regard to his power of issuing writs of *habeas corpus,* which might interfere with the defence of the city. As soon as martial law was in force, every citizen of New Orleans, whether sustaining an official character or not, was bound to submit to it; and, during its continuance, Judge Hall was no more than any other citizen, and could have no more right to violate it than any other individual. For it was quite a plain case, that if martial law did not supersede, and, during its continuance, put in abeyance, the civil power, it would be wholly inefficient in attaining the only objects for the accomplishment of which it could alone be tolerated or justified; and in this instance its justification was undoubted. To suppose that the power of the civil law and of martial law could be at the same time co-existent, was to suppose that conflicting laws would produce unity of action. The very nature of martial law, the virtue of which consisted in the celerity, promptitude, and decision of action which it produced, was at war with the deliberation and delay of civil law process. Two such conflicting powers would paralyze each other, and leave the community, which ought to be protected by the one or the other, a prey to disorganization, at the very critical moment that unanimity and celerity could alone save it. Suppose in this very case Judge Hall not only had the right to issue his writ of *habeas corpus,* but had the physical power to enforce it, and set the offender at liberty, to spread disaffection and sedition through the camp, until military discipline was set at naught; and the enemy, ever on the watch for advantages, had perceived, or, through treachery, had been informed of the favorable crisis: what would have been the consequence? Would the Senator from Georgia say that such an

exercise of the civil power was either justifiable, or in accordance with the indispensable power of enforcing martial law after it had been once proclaimed? He trusted this view of the case would induce the Senator to come still nearer to him, and that the bill now under discussion would, on the final vote, have the sanction of his support. He would conclude by simply asking the Senator from Georgia, would he not have acted exactly as General Jackson acted, had he been placed in the same position?

Mr. Berrien admitted that, on one point, he and the Senator were drawing near together; but, unfortunately, on another they were receding. He was very glad that there was one common ground upon which they could meet: it was, that General Jackson was perfectly excusable, under all the circumstances of the case, in declaring martial law; and that he was equally excusable for disobeying the writ of *habeas corpus*. He was willing to go even further, and to declare that, as far as he was himself concerned, he had always felt the deepest debt of gratitude to General Jackson for his triumphant protection of the South, and for the accession of national honor and glory which he had achieved for his country. This was a feeling above and beyond all party considerations, and he could indulge it without any reference to subsequent political events in the civil history of that chieftain's life of which he might disapprove. But, because he considered General Jackson's conduct at New Orleans, on public grounds, excusable, and, in his private judgment, worthy of the highest admiration: was that any reason why he should think it necessary, in order to justify himself in so thinking, to say or do anything which should be condemnatory of another functionary of the Government, who may have had, and doubtless had, the interests of the country as much at heart as General Jackson, even though, in the performance of his duty, he may not have seen as clearly as a military man the magnitude of surrounding dangers? General Jackson may have seen an imperative necessity for violating the Constitution; but Judge Hall, according to his civilian notions, could see no possible grounds of justification for such a violation; and must have conceived that he, at least, would be inexcusable in his violation of the Constitution, by refusing, when appealed to, the issue of his writ of *habeas corpus*. Having once issued that writ, he must also have considered himself inexcusable for a violation of his constitutional duty in not following it up to the extent of what power remained at his disposal. In all this, it must have been his conviction that his

duty was imperative; and therefore he (Mr. B.) could not countenance, in the absence of all proof, the slightest stigma on Judge Hall's conduct in the matter.

The Senator from Pennsylvania had asked him, would he not have done exactly as General Jackson had done, if in his place. If he was merely to judge by his feelings, and his sense of duty to the country, in a military command, under similar circumstances, he would have done exactly what General Jackson did, with respect to declaring martial law, and refusing to obey the writ of *habeas corpus;* but, to avoid collision with the civil power, he would have sent the prisoner out of the reach of its authority; and he certainly never would have arrested Judge Hall for what he did, as he understood the matter.

Mr. Buchanan observed that he and the Senator were coming still nearer and nearer together. The Senator frankly admits that he would not only have declared martial law, under the circumstances, but that he would have arrested the writ of *habeas corpus.* Now, this very arrest of the writ of *habeas corpus* is the ostensible and main allegation with regard to which the fine was inflicted by Judge Hall. The principal contempt of court was in this disregard of the writ of *habeas corpus.* Had the Senator been in General Jackson's place, does he mean to say that he would have allowed Judge Hall to go on issuing writs of *habeas corpus,* in every case of arrest which sedition or disaffection might render necessary—thereby encouraging, instead of deterring, the enemies of the country in their treasonable attempts? Would he not, if he saw such a disposition manifested, regard Judge Hall as a private citizen, reduced to that station by the suspension of the civil power? and even though Judge Hall might be only acting under a mistaken sense of duty, from the obvious necessity of the case, would not the General be obliged to treat him, too, in the manner in which he did, and, all remonstrances failing, compel him to quit the camp? If such a course were imperative, as a consequence of Judge Hall's pertinacity, and determination to issue writs of *habeas corpus* whenever demanded, it was justifiable, in anticipation of consequences clear to General Jackson's mind.

He would refer to a law drawn up by himself, after the trial of the impeachment of Judge Peck, on which the doctrine of contempts was fully discussed before the Senate. This law passed both Houses of Congress unanimously. It was a declaratory act: an act declaring not what the law should be thereafter,

but what it had always been in time past, as well as what it would be in time to come. He recollected that a Senator had informed him, after the bill had passed the House, and whilst it was pending in the Senate, that he had submitted it to the late Chief Justice Marshall, who, after examination, declared it was already the law of the land, and he thought it would be wise to embody it in this declaratory act. Under this act, Judge Hall had no power to punish General Jackson for contempt, in arresting and removing him from the camp. The act was approved 2d March, 1831, and the first section of it is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the power of the several courts of the United States to issue attachments, and inflict summary punishments for contempts of courts, shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice; the misbehavior of any of the officers of the said courts in their official transactions; and the disobedience or resistance, by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.

According to the Senator's own admissions, there was nothing more apparent than that the country was bound to refund the fine, with interest and costs, to General Jackson; because it was now manifest that Judge Hall, like any other citizen, must have resorted to the courts of justice, in the ordinary manner, to punish the General for arresting him and removing him from the camp. If an offence at all, it was committed when the court was not even in session; and Judge Hall could not constitute himself a judge in his own cause, by converting it into a contempt of court, in violation of the act which Mr. B. had just read. The judge out of the court was not the court; and, having issued his writ of *habeas corpus,* it went out of his hands; and in following it into the camp, and presenting himself to General Jackson, he could only be regarded as a private citizen,—*Judge* Hall, if you please; but Judge Hall only by title, and not, at the moment, the embodied court of which he was, on the bench, the representative.

Mr. Berrien contended that the contempt was in the presence of the court, though in the camp before General Jackson; for it was committed on the person of the Judge, who was the embodied personification of the court, acting in his official capacity, to enforce or carry into effect a judicial process.

Mr. Buchanan observed that the Senator was exceedingly skilful in eluding the consequences of the admissions he had already made; but he would endeavor to keep him to the ground he had before taken. He could not be mistaken in his recollection that the Senator's admission was, that the resistance of the writ of *habeas corpus* was justifiable, and a fine inflicted for that resistance ought to be refunded. Now, the Senator seems to seek for grounds of opposition to the claim, in the plea that the fine was inflicted for the indignity offered to the court by the arrest of its judge, and his removal, by compulsion, from the encampment. The Judge was in the camp in his private capacity of a citizen, in a position similar to that of any other individual, and subject to the same rules of martial law then in full force. The General in command had good reason, of which he alone was judge, to consider the army in danger of being tampered with, or of becoming dissatisfied or disaffected in consequence of the course Judge Hall was personally taking; and he removed him beyond the limits over which martial law prevailed. The writ had been some time issued, and compliance with it had been refused. There was an end of this matter till the suspension of martial law and restoration of the civil authority. For Judge Hall to persevere, then, could be viewed in no other light than that of resisting martial law; and he who had to administer that law, and was alone accountable for its administration to the country, was bound to uphold it. As the assumed duties of the civil court had been performed, and the transaction was closed, the court was closed also; and there could then be no contempt of court by the arrest and removal of the Judge.

Mr. Berrien was perfectly willing the argument should rest here. He was ready to submit the question to the Senate, whether the act of ejecting Judge Hall from the camp was a contempt of court, or a mere trespass.

Mr. Buchanan was not quite so rusty in his recollection of legal matters as to be willing to place the issue on that question. The true question was, whether the fine was inflicted for contempt of court, in disobeying the writ of *habeas corpus,* in which the Senator had admitted General Jackson was justifiable. He had no objection, however, to a separate question, whether, the refusal of obedience to the writ having been made, there was not an end to that matter; and if there was, whether the ejection of Judge Hall from the camp was not a mere trespass.

Here, by general consent, the matter was passed over informally at half-past 5 o'clock; and

Mr. Tallmadge observed that, in his mind, the Senate had had glory enough for one day. He would, therefore, move an adjournment.

The Senate accordingly adjourned; the further debate being entitled to precedence in the proceedings of the morning hour, as unfinished business.

REMARKS AND MOTION, MAY 18 AND 24, 1842, ON THE APPORTIONMENT BILL.[1]

[May 18.] Mr. Buchanan asked the chairman of the Judiciary Committee what day he expected to take up the apportionment bill. He was extremely anxious, as the Legislature of Pennsylvania was to meet on the 10th of June, that the bill should be acted upon in time; otherwise, that State would be put to great inconvenience and expense, if obliged to adjourn the Legislature, convened for the special purpose, without effecting the object for which it was called. He would, if the Senator from Georgia had no objection, move to make the apportionment bill the special order for Monday next.

Mr. Linn thought there was already a special order for that day.

Mr. Berrien considered the reasons stated by the Senator from Pennsylvania, for speedy action on the bill, worthy of consideration. No inconvenience could arise from making it the special order for Monday. He inquired if the Senator from Missouri opposed the motion.

Mr. Linn said he did not: he would offer no objection, on account of the special order to which he had alluded.

The apportionment bill was then, on Mr. Buchanan's motion, made the special order for Monday next.

[May 24.] The resolution of Mr. Merrick, defining what communications and papers, which from time to time might be transmitted from the departments to the Senate and its committees, shall be considered confidential, and the substitute proposed by Mr. McRoberts, requiring the transaction of executive business with open doors, came up in their order—the latter Senator being entitled to the floor.

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[1] Cong. Globe, 27 Cong. 2 Sess. XI. 510, 526, 527.

Mr. Buchanan, understanding that the discussion on the above subject would be prolonged a day or two, and impressed with the imperative necessity of speedy action on the apportionment bill, suggested, if it would meet with the concurrence of the chairman of the Judiciary Committee, the propriety of taking up that bill.

Mr. McRoberts, who was entitled to the floor, acquiesced in the suggestion. Then—

On motion of Mr. Buchanan, the previous orders of the day were postponed, and the Senate proceeded in the consideration, as in committee of the whole, of the

APPORTIONMENT BILL.

The questions immediately pending were the amendments proposed by the Judiciary Committee, striking out the ratio of 50,179, adopted by the House of Representatives, and substituting 50,000 as the ratio; and a provision to represent fractions, by giving an additional Representative to such States whose fraction exceeded a moiety of the ratio of 50,000; and the amendment striking out that portion of the bill making it obligatory on the States to adopt the district system of representation, each district to be composed of contiguous territory, and to return but one Representative; and substituting a provision, leaving it optional with the States to adopt either the district or general-ticket system, but retaining that portion requiring that the districts shall be of contiguous territory, sending one Representative, if the district system should be preferred.

Mr. Berrien explained the views of the Judiciary Committee, with regard to the amendments submitted to the Senate.

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Mr. Buchanan said he thought that, in the discussion upon this bill, they should make better progress by discussing but one amendment at a time. It was extremely proper for the Senator from Georgia to make a general introduction to the discussion, upon all matters connected with the bill; but, at present, he apprehended the question of fractional representation was the one to which their attention should be directed. This question, he thought, should be decided first, without reference to any other proposition or amendment. And upon this subject, he had but a very few words to say; because, notwithstanding the able and ingenious speech of the Senator from Mississippi, whose remarks

were always able and ingenious, he (Mr. Buchanan) had not been able to discover sufficient reason to change the opinion which he entertained—and which he believed had been almost universally entertained since the very origin of the Government—that such a provision would be a violation of the Constitution. Now, let us ascertain the facts (said Mr. B.) as they exist, in relation to this calculation. Delaware has a population of 77,000, and is to be allowed two members. The ratio proposed by this bill is 50,000. What will be the effect? Why, that Delaware will have one Representative for every 38,500. There are thirteen States which will all have Representatives, though not in the same proportion with each other, and having a ratio less than the number stated to be the common divisor in this bill. In Pennsylvania there would be one Representative to every 51,000; while in Delaware there would be one to every 38,500. Here Mr. Buchanan referred to a bill which was passed by the Congress of the United States in 1792, providing for the representation of the several States, and vetoed by President Washington, and the reasons given by the President for that veto; and proceeded to argue that, inasmuch as from the very establishment of this Government it was provided that the representation should not exceed one for every 30,000 of the population, and that representation and taxation should be apportioned among the several States according to their respective numbers, the proposition of the Committee on the Judiciary was a violation of the Constitution, as it was a manifest violation of the practice of the Government from its commencement. As to the injustice which it would effect towards the slaveholding States, he thought there would be time enough to consider of that (though he was the last man in the Senate disposed to do them injustice) after they had determined as to the question of fractional representation. He was opposed to the proposition, inasmuch as he believed it to be a violation of the Constitution, and at war with the principles laid down by Washington, in the first veto, to which he had referred.

The debate was continued by Messrs. Crittenden, Walker, and Berrien, in support of the committee's amendment to represent fractions; and by Messrs. Woodbury, King, Bayard, Buchanan, and Tappan, in opposition.

TO MR. LEIPER.[1]

WASHINGTON 22 May 1842.

MY DEAR SIR/

I return you the enclosed according to your request; and I now have not the scrape of a pen in my possession to shew that you are friendly to me or hostile to Tyson. Of Mr. Muhlenberg's course I had been well informed.

I think there never was a man whose name had been mentioned for the Presidency who took the subject less to heart than myself; although I firmly believe that if it had been as well understood in the beginning, that I would receive the unanimous support of the Democracy of Penna., as that Colonel Benton would receive such a support from the Democracy of Missouri in case he were a candidate, the question would have been virtually settled in my favor at the present moment. I had no hand in the Penna. movement at the time it was made; but yet I know full well that if my friends had not *then* made an effort to prove that I was the choice of the State, it was impossible that I should succeed. I did not, therefore, consider the movement premature, though I regret that it was necessary. Before it was made it was believed abroad that the Democracy were divided between Stewart & myself; and it is now believed that a similar division at least to some extent exists between Johnson & myself. If a candidate cannot start with the acknowledged strength of his own State in his support, he had better not start at all. I have always considered it an office "neither to be sought nor declined"; and I shall ever act upon this principle.

Col: Johnson has about as much chance of receiving the nomination of a National Convention as I have of being elected Pope by the next conclave of Cardinals. Those who have prompted the Johnson movement in Penna. must be perfectly aware of this fact; but still they proceed.—Somebody sent me a dirty little sheet from Harrisburg filled with personal abuse of myself. It is said to be under the protection of the Keystone & printed in that office. The object is to array the friends of Governor Porter against myself; though both at home & abroad I have been one of the best friends he has ever had. I do not blame him for any participation in this work: but he suffers it to

[1] Buchanan Papers, Historical Society of Pennsylvania.

proceed, or rather takes no active part to prevent it. Now please to burn this hasty letter as soon as you read it & believe me always to be most sincerely your friend

JAMES BUCHANAN.

GEORGE G. LEIPER ESQ.

P. S. Your friend Major Reynolds says more against me than perhaps any other respectable man in the State.

REMARKS, MAY 26, 1842,

ON THE APPORTIONMENT BILL.[1]

Mr. Buchanan said he had not intended, when he entered the Senate in the morning, to say one word upon this question. He had supposed that they would at once have proceeded to the vote, and that each Senator would have voted for that ratio which best suited his judgment and his conscience, without debate. In this he had been disappointed; and so much had already been said by other Senators, that he felt it to be his duty to make a few observations for the purpose of justifying the votes which he intended to give upon the present occasion.

We all will agree, said Mr. B., upon the general principles on which this question ought to be settled. The House of Representatives ought to consist precisely of that number, if we could ascertain it, which would most perfectly represent the feelings and wants of their constituents, and most efficiently execute their will. The mass of the people cannot assemble and deliberate; and, therefore, it becomes necessary to delegate the powers of legislation to a certain number of Representatives; and this number ought always to be so limited that each individual member shall at all times feel that he is directly responsible to the constituency by which he was elected. I do not desire to see the numbers of the House increased to such a degree that individual responsibility will be lost in the mass,—and that the Representative may do what he pleases, and escape in the crowd. The House ought to be sufficiently numerous fairly to represent the interests of the people; whilst it ought not to be so large, that the very number might, of itself, unreasonably delay, or altogether defeat, the passage of measures demanded by the public good.

[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 410–412.

I am, therefore, neither in favor of what may be called a large nor a small ratio; but of such a one as will produce a House which, whilst it fairly represents every portion of the people, will be able to transact their business in an orderly manner, and without unreasonable delay.

Before I address to the Senate the few remarks which I intend to make in reply to the Senator from Kentucky, [Mr. Crittenden,] I will put myself right in one particular. I do not believe that the efficiency or moral influence of the Senate can ever be materially impaired, or its independence endangered, by any increase, however great, in the number of the House of Representatives. On the contrary, it is my opinion that, in proportion as you increase the House beyond the number which can legislate with order, deliberation, and efficiency, in the same proportion will you increase the relative influence and character of the Senate throughout the country. I do not, therefore, concur with those Senators who dread that a numerous House might be destructive either to the independence or influence of this body. I entertain no such jealousy.

Now, sir, permit me to ask, what was the principle which governed the House in adopting this most important bill? Was it not this, and this alone: that, under the late census, no State in the Union should be deprived of a single Representative? In order to accomplish this purpose, it was necessary to increase the House to more than three hundred members; and it was done accordingly. This is the avowed principle on which the bill rests. Every State must at least preserve its present number of Representatives; and no matter how slowly its population may have relatively increased, and no matter how many additional Representatives this rule may give to other States, still the House must at all events be increased to such a number as will prevent any State from losing a single Representative which it had under the apportionment adopted ten years ago. Is this a principle which the Senate ought to sanction?

Under the census of 1810, the House consisted of 183 members. Under that of 1820, it was composed of 212 members—an increase of 14 per cent. Under the census of 1830, the present House consists of 242 members, which is an increase of between 16 and 17 per cent. on the previous number. And what does this bill now propose? An increase of the present House at the rate of 32 per cent., which will add 77 members to the number, and make the next House consist of 319 members. And this enor-

mous increase was necessary to preserve the principle that no State should be reduced below its present number of Representatives. Adopt the same rate of increase for the future, and what will be the consequence? Even at 32 per cent., the House, under the census of 1850, would consist of 421 members. But when we take into view the rapid increase of population in the new Western States, and that some of the old States are almost stationary in this respect, it will probably require an increase of the number of the House at the rate of double 32, or 64 per cent., under the census of 1850, in order to preserve to each State at least its present number of Representatives. The House, under the census of 1850, would, in that event, consist of 523 members.

I ask Senators seriously to reflect upon the consequences of establishing the principle asserted by the House in the present bill. Our Government, I trust, is destined to endure for ages; and shall we, at its very commencement as it were—for half a century is but a brief period in the history of a nation—adopt a principle which must, before the close of the next half century, swell the numbers of the House of Representatives to thousands? And for what good purpose? Although the State whose population shall increase most slowly may preserve its present number of members, yet its relative weight in the Union will be diminished just as much as if the ratio established for all the States would give it but half that number.

The Senator from Kentucky has told us that the present House consists of that number, of all others, which is the most improper; and he thinks that it ought either to be considerably increased or diminished. There may be much truth in the observation; but it is not my present purpose to discuss this point. The argument urged by him which I especially desire to controvert, is that in favor of approximating the number and condition of our House of Representatives to that of the House of Commons in Great Britain. From the very number of the House of Commons, which consists of between six and seven hundred—(Mr. McRoberts said the exact number was 658)—it is rendered absolutely necessary that a very few members should do the public speaking, and conduct the public business, on important occasions; whilst the remainder, composing the great mass, are considered merely as counters, or, to use the Senator's own language, as a revisory body. Now, this is what I most desire to avoid for my country. I would shun this result, as I would the stroke of fate. What is the condition of the British House of Commons?

There, forty members constitute a quorum; and the regular business of that body, upon most subjects, is conducted and perfected by less than one hundred members. It is only when an important political question is to be decided, on which the fate of the ministry may depend, that the whole number are summoned to be present. The forces are then marshalled on each side; and it is then that the House of Commons displays its true character. I was once present on such an occasion, before the new Parliament-house was erected. On either side of the passage through the middle of the House, leading to the Speaker's chair, there were rows of benches, rising, as they receded, one above another, until they nearly reached the ceiling. These benches were filled with members, huddled together in the utmost confusion. When a member rises to address the Chair in the House of Commons, who does not happen to be a favorite, he is invariably either coughed down or scraped down; or, as sometimes happens, is applauded down by shouts of "hear him, hear him," so loud as completely to drown his voice, and prevent him from being heard. And what is the moral and political consequence? It is simply this: a few party leaders on each side acquire all the influence and consideration; whilst the mass of the body is scarcely deemed worthy of notice. And this mass, which is brought together for the sole purpose of voting according to the will of their party leaders, is the revisory body with which the Senator from Kentucky is so much pleased. This is the mode of proceeding in the House of Commons; and such, from its numbers, it must ever continue to be, because the business of legislation for a great empire must be transacted, and this could not be done if every member were permitted to speak, and act an individual part. The freedom of speech, therefore, upon important occasions, is a privilege extended to those only who, by the judgment or the caprice of the House, are selected as leaders.

I do not desire to introduce such practices in the hall of the House of Representatives. They are utterly inconsistent with a fair, popular, and responsible representation, such as has ever existed in these United States. The constituencies of this country will never consent to a House so numerous that their Representatives shall lose all individual responsibility in the crowd, and merely serve to swell the ranks of the leaders of a ministerial or opposition party.

In England, when the ministers of the crown have the budget, or any other important measure, to carry, they must be

prepared with their troops. The greater portion of these parliamentary forces never attend except on such occasions. Having responded to the call of their leaders, and accomplished the purpose for which they were assembled, they return to their homes or to their amusements, and do not again appear in the House until again summoned to attend for a similar purpose. In the mean time, the current legislative business of the country is transacted by seventy or eighty members, and often by a less number. As I most earnestly desire that the popular branch of our Government shall possess, in the highest possible degree, the confidence and respect of the country, I hope never to see the day when Representatives, elected by the sovereign people of the States, shall cease to act an independent part for themselves, and be subjected to the drill of a few party leaders.

But the same causes will produce the same effects; and if you increase the House to the number proposed, it will be impossible to pass the necessary laws, and, at the same time, tolerate freedom of speech in all the members. Indeed, this seems to be admitted; for we have been told that troublesome members must be put down by what is termed the irregular action of the House. This will be necessary for the despatch of the public business. And what will be the ultimate result? The Representatives of the people must inevitably be silenced by the disorderly action of the House; and you will finally concentrate all power and all influence in the hands of a few party leaders. That just equality which ought ever to exist among all the Representatives of different portions of the same free people will be lost; and, instead of dividing the respectability and responsibility among all, you establish an oligarchy of a few members, whilst you profess to be extending the democratic principle. To borrow the beautiful language of Mr. Madison, in the Federalist, when deprecating such a result, "the countenance of the Government may become more democratic, but the soul that animates it will be more oligarchic." Far, then, be it from me to place the House of Representatives in any such condition,—a condition which would enable the Executive, by gaining over a few party leaders, to govern and control its action.

I would not object to a large representative body merely on account of the great additional expense which it would impose upon the people. This would be no cause of objection with me, provided any important public objects were to be gained by such an increase of members as the present bill proposes. But

believing, as I do, this increase to be not only unnecessary, but that it will prove highly prejudicial to the best interests of the country, the expense ought not to be wholly disregarded.

What would be the effect of the adoption of such a system as that recommended by the Senator from Kentucky, not only upon the House of Representatives, but upon Congress?

And, first of all, it would extend our sessions to an unreasonable length. Nay, more; I believe they would be rendered almost perpetual. This would be one of the very worst results which can be imagined. The Representatives of the people ought not to be so long absent from home as to lose that identity of feeling and interest which ought ever to exist between them and their constituents. After sessions as short as may be necessary to transact the business of the country, they ought to go home, mingle freely with the people, and breathe the pure air of the country. But large bodies proverbially move slowly; and the number of the House should never be so great that our legislative business cannot be despatched within a reasonable time. Sir, even the present number of the House is too large for this purpose. Congress has now been in session a whole year, with the brief interval of between two and three months; and no man can yet foresee when the present session will terminate, provided we shall remain here until the necessary public business has been transacted. The probability is, that after remaining in session until the patience of the country is exhausted, we shall suddenly adjourn, leaving many important subjects untouched. I have nothing to say against the present House of Representatives. On the contrary, I firmly believe that it would be difficult to select 242 men in the United States better entitled to the public confidence, whether we regard their ability or integrity. The great delay results from the necessity of the case. In a period of great excitement, all of the present number cannot exert the rights to which all are equally entitled, without rendering the sessions almost perpetual.

Another powerful reason why business proceeds rapidly in the House of Commons is, that its members receive no pay. This never can and never ought to be the case in regard to members of the House of Representatives, because its inevitable effect would be to fill these halls with men of wealth, to the exclusion of poor men, who could not afford to serve their country without compensation. The want of pay, however, operates powerfully on the despatch of business in the House of Commons. It is

hurried through as fast as possible; and members return to their homes, after a comparatively short absence. The rank and file, or "revisory body," undistinguished as they are, consider the time of their attendance rather as a period of imprisonment, during which they can acquire but little glory, and no profit; and they desire to render it as brief as possible.

During the whole period of my service as a member of the other House, which terminated before it became so numerous as it is at present, I recollect but one call of the House; and, on that occasion, the call had proceeded but a short time until it was suspended, and the vote on the question pending was taken. There may have been more than one such call during the ten years of my service, and the Senator from Connecticut [Mr. Huntington] informs me that there was; but, if so, they certainly were of very rare occurrence. The members then punctually attended in their places; and although, during a large portion of that period, political excitement mounted as high—both in the House and over the country—as it has ever done in my day, the public business was transacted without any unreasonable delay.

What do we now habitually witness? Calls of the House, and adjournments for want of a quorum. The House cannot and ought not to transact business with but forty members, as they do in the House of Commons. The Constitution requires, as it ought to require, the attendance of a majority of all the members in order to form a quorum. If, then, these difficulties and delays are constantly occurring in a House consisting of 242 members, will they not be much greater when it shall consist of 319? Each individual will then consider himself as only the 1-319th part of the whole House, and think it but of little consequence that he should be absent. The result will be that the public time will be wasted, and the public business delayed still more than at present, in calls of the House for the purpose of enforcing the attendance of a quorum, and in consequence of adjournments for want of a quorum. Besides, even at present, the necessary operation of taking the vote on a call of the ayes and noes consumes about half an hour of the time of the House. When the House shall be enlarged to 319 members, five or six such calls will consume one whole sitting.

I think, Mr. President, from all my observation and experience, that a House of about 200 members is the most proper number. Let it be fixed at this number for the present, and you will leave yourself room to increase it gradually, at each returning

census, with the increase of our population, until it may finally reach three hundred, should experience prove that this may be done without danger to the just weight and character of the House throughout the country. It is much easier to increase than to diminish. If you now start with so large a number as 319, on the principle that no State shall be deprived of any one of its present number of Representatives, it is my opinion you will start on the road to ruin. You will materially injure, if not destroy, the moral and political influence of that body. If such should be the effect, and that greatest and most powerful organ of the public will, representing the mass of the people, should lose the confidence and respect of their constituents, the consequences may be fatal to the Government itself. I desire that the House should possess a still greater degree of influence throughout the country than it does at present; and I would be the last man in the Senate who would detract a tittle from its weight and importance. I desire that it should stand in the estimation of the people as the great bulwark of their rights and liberties, and the guardian of their interests. It is for this reason I have observed, with profound regret, that almost every paper which reaches me denounces the House of Representatives for their tardiness in the transaction of public business, their disorderly conduct, and the interminable length of the sessions of Congress. This is the very worst and most alarming symptom for the perpetuity of our institutions which I have witnessed for many years. I believe that each member of that body is desirous of serving his country faithfully, and that the delay in their proceedings arises mainly from their number, and the honest determination of each to do his duty to his own constituents. The number of 200 would not be too large, in my opinion, to permit the despatch of business within a reasonable time; and my own experience in the House justifies this opinion. I cannot, therefore, vote with those Senators who are in favor of a less number. The House ought to be so numerous that the political influence of the Executive could never swerve it from the duty which it owes to the people of the country, by gaining over a majority of the individuals of which it is composed; and yet so small that it shall be able to transact the necessary public business so that each member shall not lose his individuality in the mass, but be presented personally, in bold relief, to the keenest scrutiny of his constituents. I desire that the House may be now constituted in such a manner that our successors in 1852 may, if experience should justify it, make a

moderate addition to its numbers; and not that we should, at this early period of our history, adopt the extreme limit, beyond which they can never go with safety.

It has been contended that ours is a vast country, and therefore requires a numerous House to represent the various feelings, interests, and wishes of the people. That the country is vast, none will pretend to deny; but, after all, the legitimate duties of Congress under the Constitution are confined to but few subjects. The questions of war and peace, the regulation of commerce, our foreign relations, our post office establishment, and a few other subjects of a general character are alone embraced within the range of our authority. The people look to their State Governments for all the legislation of a municipal character. It is in the State Legislatures that almost every thing is transacted which relates to State, local, or neighborhood concerns, and which most immediately affects the interests of the people. I am one of those who believe that the preservation and peace of this Union require that Congress should never extend their powers by construction, and should interfere with State legislation as little as possible. Under these circumstances, I am convinced that one man can well represent all the interests of seventy thousand constituents, on the few questions intrusted by the Constitution to Congress; that he would feel himself to be more directly responsible to them; and that his constituents would exert a more controlling influence over him than if he represented but fifty thousand constituents, and the number of the House should thus be extended to upwards of three hundred members. The basis on which I desire to see the House organized, is that which will best carry into execution the wishes of the people, and enable the people to hold their representatives most directly responsible. If you increase the House to the number which you propose, you will defeat this great object. I shall therefore vote, in the first place, for such a ratio as will reduce the proposed number of the House to 200; and, failing in this, I shall vote for every ratio proposed in succession, without regard to the fraction which it may leave to my own State, which will keep the House down as nearly as possible to two hundred members.

REMARKS, MAY 27, 1842,

ON THE APPORTIONMENT BILL.[1]

Mr. Buchanan said he had waited for some other Senator to raise his voice against what he considered to be a new and dangerous doctrine upon this floor. He very rarely differed in opinion from his friend from New York, [Mr. Wright,] and it was with reluctance he felt himself compelled to do so upon the present occasion; but yet he must protest against any and every attempt to influence the independent judgment of the Senate, by bringing the opinions of the House to bear upon it. He understood the Senator from New York distinctly to declare, in speaking of the number of which the other House ought to be composed, that if the House could not be brought to adopt a proper measure until brought to it by a vote of the Senate, it would never be brought to it at all; and that he would not set up his own judgment against that of the New York delegation in the other House. Upon all legislative questions, the Senate ought not only to act independently of the House, but to act without bringing into the debate the opinions of its members, whether individually or collectively, to bear upon their judgment. The Constitution had made them an independent branch of the National Legislature; and they ought not to be influenced either by what had been done heretofore, or might, in the opinion of its members, be done hereafter, by the House. They should exercise their own discretion upon this and all other questions, under the responsibility they owed to the States which they represented, and under no other responsibility whatever. He would have been extremely glad if some other Senator had risen to protest against the doctrine which had been asserted by the Senator from New York. The Senator from South Carolina, [Mr. Calhoun,] although he did not go to the same extent, had advanced a similar doctrine. He said, that if he believed the House had determined to adhere to the ratio inserted in the bill, the Senate ought not to resist that determination.

The Senate (said Mr. B.) is the body in which the sovereign States of this Union are represented; and the Constitution of the United States has conferred upon us equal legislative powers with the House; and we are equally bound to discharge our duty independently, upon this as upon any other question

[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 438–439.

which may be brought before Congress. If there should be a difference between the opinions of the two Houses,—if the one should adopt a high ratio, and the other a low one,—both will then be bound to act in that spirit of compromise to which our institutions owe their existence, and, through the agency of a committee of conference, agree upon a middle course.

Although I freely admit a perfect equality between the two Houses upon this and all other legislative questions, yet, if any preference ought to be given to the opinion of the one over that of the other, on account of the peculiarity of the present question, perhaps arguments might be adduced to prove that the judgment of the Senate ought to have an influence superior to that of the House. The members of the House are all honorable men—men of the highest character; yet it cannot be denied that they have been engaged upon a question in which they are directly interested. The Senate can have no other feeling upon the subject, but a desire to do what is best for the country—unless, indeed, our personal partiality for our friends in the other House might be supposed to influence our judgment. If our calm, deliberate, and impartial conviction should be favorable to a reduction in the number of the House, I have no doubt this will have its just influence. Whilst, therefore, I would yield to the House a full and perfect equality on this and on all other questions; yet, if there were to be any difference in favor of the Senate, under any circumstances, it ought to be on a question so immediately affecting the members of the House. Even the purest and the wisest of men are not the best judges in their own cause.

Whilst I am up, I shall make a few observations in reply to other Senators, on the question of executive influence. Is it probable that this would act with greater effect upon a House composed of two hundred, than upon one of four hundred members? This is the true practical question; because, as to driving the members from their hall, at the point of the bayonet, after the example of Cromwell and Bonaparte, I suppose no person entertains any serious apprehension on that subject.

Now, what is the most perfect idea—the *beau ideal* of a system of representation? It is, that there shall be as many districts of equal population in the several States as there are members of the House; and that each of those districts shall elect one member. Each one of these Representatives ought to speak the sentiments, act upon the opinions, and reflect the wishes of his own particular

constituency, so far as this may be possible. As the people of the respective congressional districts enjoy equal rights, their Representatives ought to meet and deliberate on terms of perfect equality; and they ought individually to be subjected to an equal responsibility to those by whom they were elected. Any organization of the House of Representatives which would necessarily, in practice, destroy these principles, ought to be most carefully avoided. But would not this be the result, if, as has been admitted by the Senators from Kentucky and Missouri, [Messrs. Crittenden and Benton,] it would become necessary, in a House of four hundred members, to abridge the freedom of debate, and put speakers down by all sorts of discordant noises? This the Senators call the irregular action of the body, which is necessary to the despatch of the business; and they believe that the House ought to consist of three or four hundred members, in order that a sufficient corps of disorderly members may be formed thus to put down disorder. Such conduct may be tolerated in the House of Commons or the Chamber of Deputies; but it will never be sanctioned by the people of the United States. Their Representatives hold their right to speak the voice of their constituents from the people themselves, and not by the permission of a corps of those "thundering boys," who silence all whom they are unwilling to hear, by shouting, by scraping, and by mock applause. When you arrive at this point, where then is the influence of the whole body concentrated? Is it not in the hands of those party leaders who are the favorites of the mobocracy among the members? Thus it is in the House of Commons, and in the Chamber of Deputies; and thus it will be in the House of Representatives. The entire control over the business of the House will then devolve upon some forty or fifty members; and the remainder must become mere counters, and cease to exercise their own independent judgment, or to represent fairly and faithfully their own constituents. Whereas, on the other hand, if you have a legislative body of a reasonable size, each member who desires it can be heard, and can exercise his legitimate influence; and in this manner you will best guard against executive and every other improper influence.

The Senators from Kentucky and Missouri [Messrs. Crittenden and Benton] have both urged strongly that a House of four hundred members would be more free from executive influence, than a House of two hundred; because, say they, it would be more difficult to influence or corrupt a large body than a small

one. But if, from the very number of the House, it follows, as a necessary consequence, that a few prominent members and party leaders must transact the whole of the important business, then, in order to influence a majority of the House, it will only be necessary to influence or corrupt these leaders. Whenever the body shall become so numerous that it will be impossible for all the members individually to represent their own constituents, then the power of the House will necessarily devolve upon those who conduct the business, and the remainder must become comparatively ciphers. The House will then be governed by an oligarchy; and if the Executive can seduce the leaders upon any great question, the rank and file will follow as a matter of habit. Although the House may be numerous, the influence will then be confined to a few members; and the very number will shield these few from a just responsibility. It is, therefore, my opinion that a House composed of two hundred members, in which each will feel his individual responsibility, and each be able to represent his own constituents independently, without being compelled to follow in the wake of some party leader, will present a more powerful barrier against executive influence than would be presented by a House of four hundred members. But, at the present late period of the debate, it is not my intention to labor this question. Mr. Madison, in the extract from the Federalist, referred to by the Senator from Virginia, [Mr. Rives,] in his own felicitous style, has, within a narrow compass, almost exhausted this subject.

One observation, however, says he, I must be permitted to add on this subject, as claiming, in my judgment, a very serious attention. It is, that in all legislative assemblies, the greater the number composing them may be, the fewer will be the men who will in fact direct their proceedings. In the first place, the more numerous any assembly may be, of whatever characters composed, the greater is known to be the ascendency of passion over reason. In the next place, the larger the number, the greater will be the proportion of members of limited information and of weak capacities. Now, it is precisely on characters of this description that the eloquence and address of the few are known to act with all their force. In the ancient republics, where the whole body of the people assembled in person, a single orator, or an artful statesman, was generally seen to rule with as complete a sway as if a sceptre had been placed in his single hands. On the same principle, the more multitudinous a representative assembly may be rendered, the more it will partake of the infirmities incident to collective meetings of the people. Ignorance will be the dupe of cunning; and passion the slave of sophistry and declamation. *The people can never err more than in supposing that, by multiplying their Representatives beyond a certain limit, they strengthen the barrier against the government of a few. Experience will forever admon-*

ish them that, on the contrary, after securing a sufficient number for the purposes of safety, of local information, and of diffusive sympathy with the whole society, they will counteract their own views by every addition to their Representatives. The countenance of the Government may become more democratic; but the soul that animates it will be more oligarchic. The machine will be enlarged, but the fewer, and often the more secret, will be the springs by which its motions are directed.

It is this very oligarchy of members which I desire to avoid. It must exist in a House of four hundred members, or the necessary public business cannot be transacted: it will not exist in a House of two hundred. To govern a House of four hundred, it will only be necessary to influence this oligarchy; but in a House of two hundred, you must influence a majority of all the members. The Senators have, then, been unfortunate in their attempt to prove that executive influence would operate more powerfully upon a House of two hundred than one of four hundred members.

SPEECH, JUNE 4, 1842,

ON THE APPORTIONMENT BILL.[1]

In opposition to the second section of the bill "for the apportionment of Representatives among the several States, according to the sixth census" —

Mr. Buchanan said: If I thought it possible that the few observations which I intend to make would prevent the question on the bill from being taken to-day, I should not now obtrude myself on the attention of the Senate for a single moment. If the Senator from Georgia, [Mr. Berrien,]—whose privilege it is, as chairman of the committee which reported the bill, to close this debate—had risen to address the Senate, I should have kept my seat and remained silent. I will yet yield the floor to him with pleasure, and I hope he may accept it; because I desire, above all things, that the final question should be taken to-day.

[Mr. Berrien declined the offer, stating that he did not desire the honorable Senator to regulate his course with any reference to his [Mr. Berrien's] convenience.]

Mr. Buchanan. I shall then proceed to make some observations on the question before the Senate, in the belief that the vote will be taken before our adjournment to-day.

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[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 449–451.

My own impression—nay, my own conviction—is, that this is one of the most important questions which have ever been brought before the Senate of the United States; and, in the first place, I think, sir, from what has transpired in the other House, as well as from what we have witnessed in this body, that the section to provide for districting the States ought not to have been inserted in the present bill. It ought to have been brought before Congress in a distinct and independent form; and least of all ought it to have been attached as a second section to the bill for the apportionment of Representatives among the several States.

I call upon Senators to consider the consequences which may follow from this forced and unnatural union. What may be the result? Why, sir, the passage of an apportionment bill is absolutely necessary to preserve the existence of this Government. We must apportion Representatives among the several States, according to their respective numbers, or no House of Representatives can be elected; and, without a House, the Government is itself annihilated. All of us, then, feel ourselves bound, by an imperious and overruling constitutional mandate, to perform this duty.

But may there not be great danger that, by forcing the district system into the present bill, you may defeat its passage altogether and thus occasion a suspension of the powers of Government? There are about twenty of us on this floor who feel that we cannot, consistently with our oaths to support the Constitution, vote for this bill, provided it shall contain a mandate to the State Legislatures to divide their respective States into districts, for the election of Representatives to Congress. Now, sir, if five other Senators should vote against it on account of other objections—such, for example, as that the ratio which it proposes is either too high or too low—then these five, added to the twenty, would constitute a majority of the Senate; and the bill would be defeated altogether. In that event, there would be no apportionment of Representatives among the States, according to the command of the Constitution, and there could be no election; and this simply because you have obstinately determined to force the district system into the bill. What has been the result of this most unfortunate attempt? We have been already engaged in debating this question for more than a week; and, from the indications which I now observe around me, I do not know how much longer the discussion may continue. In the

mean time, the Legislatures of several of the States are assembling, for the purpose of providing for the election of Representatives to Congress, according to your apportionment; and they may be compelled to adjourn before Congress shall have passed this bill. If, then, it be so desirable, in the opinion of Senators, that the provision for districting the States should be enacted into a law, why may it not be done by a separate bill? I appeal to the majority upon this floor not to place us of the minority in such an embarrassing position as to compel us to vote against the whole bill, because we conscientiously believe that its second section is a violation of the Constitution. Let them consent to strike it out, and afterwards introduce it in the form of a separate bill; and thus place it in our power to vote in favor of the apportionment itself, without the embarrassment of this clause. Why, sir, according to the established rules of legislation, no clause can be introduced into a general appropriation bill, unless it be necessary to give effect to some provision of an existing law. And why? Because the passage of such bills is necessary to carry on the Government; and if you engraft upon them clauses for which members cannot vote, without violating the Constitution, or their own consciences, you thus compel them to vote against the entire bill, and to leave the Government without the means of support. If, then, it be important that such clauses should be excluded from appropriation bills, how much more important is it that the bill on which the very existence of the House of Representatives depends should be relieved from a measure of such a dangerous and unconstitutional character! I trust and hope that Senators in the majority may be induced, for this, if for no other cause, to withdraw the districting provision from the existing bill, and not place us in the embarrassing position which we must occupy, in voting against the entire measure.

The next question which presents itself is, have Congress the constitutional power to pass the second section of the bill? It enacts, "That in every case when a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment *shall be elected by districts, composed of contiguous territory, equal in number to the number of Representatives to which said State may be entitled; no one district electing more than one Representative.*" It will be observed that here the provision ends. We do not propose, under our own authority, to lay off these districts; we do not propose to carry into effect our own enactment by our own legislation: but,

in effect, we issue our command to the State Legislatures to perform this duty for us; and if they neglect or refuse to obey our orders, the admitted penalty will be, that their people shall be deprived of Representatives in the other branch of Congress. Is such a law constitutional?

Now, sir, I freely admit the power of Congress to divide the States into single congressional districts. This power is expressly given to them by the terms of the Constitution itself, which declares that "*the times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations,* except as to the places of choosing Senators."

The Congress may at any time, by law, make such regulations, or alter them; but can they, whilst refusing to exercise this power themselves, command the exercise by the State Legislatures? This is the question. That no such command can be constitutionally issued, I consider to be a clear, nay, almost self-evident proposition. This has been conceded on all sides, and has been emphatically admitted by the Senator from Mississippi, [Mr. Henderson,] and the Senator from Kentucky, [Mr. Morehead.] In what manner, then, have these Senators endeavored to avoid the effect of their own admission? They deny the fact that this bill contains any such order or mandate to the State Legislatures. Are they correct in this denial? The bill itself declares, in terms the most peremptory, that the Representatives in the other House shall be elected in single contiguous districts throughout all the States; and it does no more. It does not profess, by its own intrinsic authority, to carry out this principle into practice. I ask, by what human power can this be done, except through the agency of the State Legislatures? From the very nature of things, then, this imperious order is addressed to them, and to them alone. It would be absurd to address it to any other authority. But obedience to this command is to be enforced by the severest penalty. It is true that this penalty is not denounced, in express terms, on the face of the bill; but it is so plainly implied, that he who runs may read. The people of the States, in case of the disobedience of their Legislatures, are to be deprived of the constitutional right to be represented in the other House; and the Representatives elected by them, in any other manner than that prescribed by the bill, are not to be suffered to take their seats. There was some boggling, some hesitation, at the

first, before the existence of this penalty was admitted by Senators; but now it is avowed by all. Indeed, it could not have been denied, but upon the presumption that the bill was mere *brutum fulmen,* and meant no more than a simple request, which might or might not have been complied with by the Legislatures of the several States, at their pleasure, without producing any injurious result. It appears manifest to me, then, that the bill is the same, in substance, as though Congress had proclaimed, in so many words, to the State Legislatures—You shall pass laws dividing your States into single districts: we do not choose to do this ourselves, although we possess the unquestionable power; and therefore we command you to do it for us, under the penalty, in case of disobedience, of having your chosen Representatives excluded from their seats in Congress. This is the sum and substance of the second section of the bill. Has Congress, under the Constitution, any power to enact such a law? Upon this point I confess that the Senator from Mississippi [Mr. Walker] has stolen my argument—although not feloniously; because he and I have never had any communication on the subject. [Laughter, in which the Senator from Mississippi seemed heartily to join.] The very views which he has presented, and which neither have been nor can be answered, have always appeared to me to be conclusive on this question.

Why, sir, what is the key which unlocks the whole meaning of the Constitution? What was the great purpose for which the Federal Convention assembled? All in the least degree acquainted with the history of the country know that it was for the very purpose of preventing the necessity of all requisitions by the General Government on State Legislatures, and enabling this Government to execute its own laws, by acting directly upon the people of the States, instead of their Legislatures. This was the governing principle of the framers of the Constitution.

What was the history of the old Confederation? Each State, for example, was bound to contribute its just proportion towards the expenses of the Federal Government. Requisitions could only be made by the old Congress upon the State Legislatures for their respective quotas. It might "call spirits from the vasty deep;" but these Legislatures obeyed the call just when they pleased. The old Congress could not compel them to impose taxes for the purpose of enabling them to contribute their respective proportions towards the general expenditure; and they obeyed, or disobeyed, according to their own will and pleasure.

The present Constitution was established for the purpose of removing this difficulty, and enabling Congress to act directly upon the mass of the people, without the intervening agency of the State Legislatures, and, by virtue of its own authority, to enforce obedience to its own laws. Now, what is the present bill but a return to the exploded system of the Confederation? It is a requisition, and nothing but a requisition, upon the Legislatures of the States, to divide their territories into single districts for the election of members of Congress. Now, sir, with my settled convictions of the true meaning of the Constitution, if I were a member of the Legislature of Pennsylvania, I should not feel myself bound to obey this mandate, by passing a law to carry it into execution. It is true that I would desire to avoid all collisions with the General Government; and this might induce me to conform to the act of Congress, for the present, in the confident hope that it would be repealed, as a violation of the Constitution, at no distant day; because we shall certainly repeal it as soon as we obtain the power.

I believe that this Government would be speedily dissolved, if you should ever return to the old system of making requisitions on State Legislatures, instead of acting directly upon the people. In that event, your mandates would be disobeyed, and your authority would be rendered contemptible.

Let me put a case to illustrate the unconstitutionality of this second section. Under the Constitution, Congress and the State Legislatures possess concurrent powers over several subjects. In such cases, when Congress exerts its power, our law becomes the supreme law of the land, and the previous legislation of the States is annulled. The State Legislatures possess the power of enacting bankrupt laws; but Congress may, at any time, defeat the exercise of this power, by using its concurrent power over the subject, and passing a bankrupt law of its own. But Congress can never produce this effect by directing the State Legislatures in what manner they shall exercise their power. It must act for itself, or leave them to act for themselves. Suppose Congress should simply assert the general principle, in language similar to the bill now before us, that no bankrupt should petition for his discharge, under any State law, without having first obtained the written consent of two-thirds of his creditors in number and value; and prescribe as a penalty, in case the State Legislatures should refuse to pass laws for the purpose of carrying this principle into practice, that any discharge of such bankrupt made in

violation of this enactment should be null and void: is there a Senator on this floor who would say that such a mandatory act as this to the State Legislatures would be constitutional? No, not one. And yet, what is the difference between the case which I have put, and the bill now before us? I should be glad if any Senator would point it out.

The principle for which Senators contend would make acts of Congress, instead of being the declared will of an independent and separate Government, a constituent part of State legislation; and this, too, in opposition to the will of the State Legislatures. These Legislatures must obey the command of their superior; they must yield their judgment and their conscience to our mandate; and they must enact laws to give it life and efficiency, whether they will or not. If they do not choose to yield obedience, then the act of Congress becomes a nullity, and incapable of execution. The wise and far-seeing framers of the Constitution never established such absurd and dangerous relations between the two Governments. They never intended that a portion of the legislation over one entire subject—such as that of dividing the States into single congressional districts—should be performed by Congress itself; and that the remainder should be executed, under its command, by the State Legislatures. They never intended to fetter the free will of members of a State Legislature, and compel them to pass laws which might violate their consciences. Legislative power necessarily implies legislative discretion; and it would be absurd if the Constitution gave you the power of commanding those who, by the very law of their existence, may either obey or refuse, according to their sovereign will and pleasure. A superior court cannot issue a mandate to an inferior tribunal directing what judgment it shall give: and why? Because the judges of the inferior court must exercise their own discretion, according to their sense of law and justice. This principle will apply with much greater force to the relative position of Congress and the State Legislatures. We cannot command the members of such a body to give a vote which they honestly believe would violate the Constitution which they have sworn to support, and involve them in the guilt of perjury before God and their country. I again freely admit that Congress may, if they think proper, regulate the manner of electing members of Congress; but they must exercise this power by virtue of their own laws operating upon the people of the several States, and not by commanding the State Legislatures to pass such laws. One

legislative body cannot delegate its powers to another; much less can it command that other how it shall act. Where legislative discretion exists, a command is out of the question.

The perpetuity of the General Government, and the union and harmony of the States, depend upon the preservation of the general principle which runs through the whole Constitution,—that Federal and State powers should move and act in separate and distinct orbits. This is essentially necessary to prevent dangerous collisions between them. Why, sir, so entirely distinct and independent of each other has the Constitution made the two Governments, that the Supreme Court of the United States have decided that Congress cannot confer upon the courts of the States the power to try and punish a crime committed, or to enforce a penalty created, under any law of Congress. If we, then, should exercise the power conferred upon us by the Constitution, and, by our own independent authority, district the States, and compel the people to hold their elections under our law,—we could not even delegate to the State courts the power of trying and punishing offenders against its provisions. Your law must be executed by the Federal, and not by the State courts; by your own officers, and not by State officers. And yet this bill is an attempt to destroy, to prostrate, to level in the dust, the wise and the strong barriers which have been established by the Constitution between Congress and the State Legislatures. It is an attempt to blend the powers of the two in such a manner as must necessarily produce collision and confusion between them, and to make the State Legislatures subordinate to Congress. It is, in effect, a practical revival of the doctrine of those high-toned friends of Federal power who, in the convention, desired to subject State laws to the supervision of Congress. No, sir, no; if you act at all, you must act like a sovereign upon the people of the States, not upon their Legislatures. You cannot cut up and divide one entire subject—laying down your own general principles as rules to guide and control the State Legislatures in their free and independent action; and compel them, against their consciences, to adopt your construction of the Constitution, and pass laws to carry it into effect. And, above all, you have no right to denounce against the people of the States the penalty that they shall remain unrepresented in Congress until their Legislatures shall pass laws in obedience to your mandate.

The case ingeniously put by the Senator from Mississippi [Mr. Henderson] last evening, has no application to the present

question. It does not present an instance in which Congress may pass a law which it has not the power to execute. The first section of this bill, to which he refers, apportions Representatives among the several States according to their respective numbers. Has Congress no power to carry this law into execution, independently of the action of the State Legislatures? Nobody doubts it. We may pass a law prescribing and regulating the manner of holding elections in the States, in obedience to this apportionment bill. This has been admitted throughout the debate. All for which we have contended is, that Congress must act for itself, and cannot either direct or control the action of the State Legislatures. And why this omission? It would be as absurd as it is unconstitutional to attempt to coerce these Legislatures to pass any law to carry your apportionment of Representatives into effect. They are not the subjects of coercion. And there is no power conferred upon Congress, in any part of the Constitution, to command them to perform, or not to perform, any act of legislation. The first section of the bill, therefore, does not attempt to control or govern their conduct. It simply performs the duty required by the Constitution—of apportioning Representatives among the several States! And there it ends. The State Legislatures either will, or will not, carry into effect this act of Congress. Should they refuse to perform this constitutional duty, no power exists in Congress to coerce obedience. Each State, acting in its sovereign character, elects Representatives according to your apportionment, under the mandate of the Constitution of the United States, and not of your law; and, therefore, in the first section of this bill, we do not inform the State Legislatures either that they shall do this or do that, but leave them where the Constitution has left them—to the exercise of their own discretion. But, under the second section of this bill, they are emphatically told that, in the election of their Representatives to Congress, they shall divide their respective territories into single congressional districts; and that, if they fail in obedience to this command, they shall be deprived of Representatives altogether. At the word of command, they must pass all laws which may be necessary and proper to carry our will into effect; and they must punish, under their own authority, every violation of the laws which they may pass for this purpose. If the bill should pass in its present form, Congress may hereafter confine itself to the assertion of general principles, and compel the States to perform the drudgery of legislation necessary to carry these principles

into effect, under the penalty of forfeiting some great constitutional right. The precedent thus established will make Congress supreme, and the State Legislatures mere ministerial agents. We shall resemble a supreme judicial tribunal issuing its mandate to an inferior court to perform some mere ministerial act. I say ministerial act; for even in such a case, if the act to be performed involves the exercise of judicial discretion, no such mandate can issue. It would be a waste of time to contend that the Constitution nowhere confers such a power on Congress over the Legislatures of the States.

My friend from New York [Mr. Wright] has been very severely assailed for what he has said on this question. Senators have told us that when the lion was roused—when New York threatened—it was time for the smaller States to take the alarm. But did the Senator threaten? What was the fair purport of those remarks which have been the cause, or the pretext, of such a storm? The Senator supposed it possible that the Legislature of his State might believe your law to be unconstitutional, and therefore might not obey its directions in providing for the election of Representatives to Congress. Who, then, must decide this question? The Constitution itself declares that "each House shall be the judge of the elections, returns, and qualifications of its own members." There is no mode of raising this question for the decision of the House, which is the only competent tribunal, but by disregarding your law, and electing Representatives, as the States have done heretofore, in such a manner as may best suit the convenience of the people. Was it, then, a threat for the Senator from New York to declare that the House ought long, very long, to hesitate before they would reject and turn out of doors all the Representatives elected in this manner by the people of New York? I, myself, think they ought long, very long, to hesitate before they would pursue any such course. In my opinion, if they should decide according to the plain import of the Constitution, they would declare the act of Congress to be unconstitutional in issuing a mandate to the State Legislatures, and therefore admit to their seats such members elected in violation of this mandate.

If the Senator had threatened war and bloodshed, desolation and carnage, in case the House should refuse to admit Representatives from New York elected in violation of this act, he could not have been assailed by a louder tempest of eloquence. It is truly a most terrible threat to say that the House, under such

circumstances, ought to hesitate long before they would reject members of Congress thus elected under the laws of the sovereign States! And yet this simple declaration is the bugbear—the raw-head and bloody-bones—by means of which Senators would frighten us from our propriety.

This sentiment of the Senator has engaged us already in a discussion of several days, in which the Senators from Kentucky and South Carolina [Messrs. Crittenden and Preston] have greatly distinguished themselves in their attempts to raise a storm. They have treated the question as though the principles avowed by the Senator from New York involved the destruction of the Government itself. But the atmosphere has again become clear and tranquil; the mountain has been in labor, and the ridiculous mouse has crept out; and thus this new danger to our institutions has passed away.

But, in the third place, even if the second section of this bill were constitutional, it would, in my opinion, under existing circumstances, be highly inexpedient to adopt it. I shall discuss this branch of the subject as though your bill itself had divided the States into congressional districts, and had provided for its own execution, without any mandate to the State Legislatures. Considered in this point of view, (and I shall thus consider it hereafter,) although it would be constitutional, yet it would be an exercise of your power, without the existence of any one of those evils for which the framers of the Constitution intended that this power should afford a remedy. You may violate the spirit, whilst you keep within the letter of the Constitution; and such is emphatically the character of the present measure.

Sir, what is the principle which can alone sustain this mighty Union? It is this: that the General Government shall never exercise doubtful or dangerous powers, especially when they interfere with the domestic concerns of the States, without absolute necessity. So long as this Government shall confine itself to those subjects which belong to it properly, we shall enjoy peace and harmony; but the moment it departs from this wise and prudent course, it will come into collision with the States, and thus produce consequences which may endanger its own existence. Point out to me, in our past history, any period when the peace and harmony of the Union have been placed in imminent peril, and I will show you that the cause has always been the exercise of some doubtful and unnecessary power over the

States, on the part of Congress. This has been our history from the very origin.

Now, sir, the rule of Horace, as applicable to epic poetry, is peculiarly appropriate on the present occasion:

"Nec Deus intersit, nisi nodus vindice dignus."

Let not a god be invoked to interpose, unless the difficulty to be overcome be worthy of a god. The extreme medicine of the Constitution ought not to be converted into daily bread. Such, however, is the measure proposed by the second section of this bill. The power of interfering with the sovereignty of the States, and depriving them of the right to regulate the election of their own Representatives to Congress, was only given to be used in extreme emergencies, none of which now exists, or has ever existed since the Federal Government came into being. And although the Constitution may confer upon Congress this power in such general terms that the validity of your action could not be questioned in a court of justice, yet we, as Senators, in voting upon the present occasion, ought to be influenced by the well-known fact that this bill, though within the letter, expressly violates the spirit of the Constitution and the intention of its framers. I need not specially refer to the Federalist, and to the other commentators on the Constitution, which have been cited, for the purpose of proving that this power over State elections was given for the purpose of enabling the Federal Government to perpetuate itself, and was intended to be exercised only upon the neglect, refusal, or inability of the States to provide for the election of Representatives to Congress. It is everywhere called an eventual or ultimate power, to be exerted only for self-preservation—a power never to be called into action unless self-preservation, or the existence of some extraordinary abuse on the part of the States, should render it necessary. This is the language of the framers of the Constitution themselves, and is to be found everywhere in the debates of the conventions of the respective States which ratified the Constitution. There is one unbroken chain of testimony upon this subject, so strong as to force conviction upon every mind. So jealous were these State conventions of the existence of this power, and so dangerous did they consider it, that seven out of the old thirteen, in the very act of ratifying the Constitution, protested against the exercise of this power by Congress, unless for the purpose of self-preservation. They expressed the greatest alarm and apprehension lest it might be

abused; and, on this account, sought to abolish it altogether by an amendment of the Constitution.

Now, sir, when some State of this Union shall refuse or neglect to perform its constitutional duty, in providing for the election of its own Representatives to Congress, and not till then, ought Congress to interpose. If we should interpose sooner, we shall violate the plain and manifest intention of the framers of the Constitution.

For more than half a century, all the States have, in this particular, performed their duty. They have always elected their own Representatives, under their own laws, without complaint from any quarter. Have the larger States of the Union ever abused their power? This is not pretended. These States all now elect by districts; and none of them has ever complained that a few of the smaller States, for their own accommodation, or even to increase their own influence, have adopted the general-ticket system. The whole present number of these States is five; and, altogether, they are entitled to elect but twenty-six of the two hundred and twenty-three Representatives provided for by the present bill. So far as political influence may be concerned, no party will probably sustain any injury, as, in the aggregate, the result would be about the same as if they elected by districts.

Oh! but, say Senators, we must be wise in season. It is true we have had fifty years' experience in favor of the old system; but New York, Pennsylvania, and the other large States may hereafter adopt the general-ticket system, and this would destroy the influence of the small States; and, therefore, we must take things in time to prevent such an outrage.

Is this a proper course for wise statesmen and legislators to pursue? It has been truly said that the world is too much governed, but if statesmen, instead of confining themselves to remedies for evils which actually exist, will draw upon their imagination, and conjure up evils which may possibly exist at some future time, the business of legislation will be greatly extended. We shall then always be in the clouds, looking into remote futurity, instead of attending to the real practical business of human life. There is no actual inconvenience whatever under the present system,—it is all in perspective. This bill provides a remedy against what the States may possibly do hereafter, not against anything which they have ever done.

But, sir, this remedy for an evil which never has existed, may

itself prove to be an infinitely greater evil than that which it proposes to prevent. You will most assuredly have to endure the penalty for intermeddling, without the least necessity, with the domestic affairs of the States, in a matter of such vital importance, and in violation of the spirit, if not the letter, of the Constitution. This will come hereafter; though I, for one, will do what I can to avert it. But, sir, all the States will not—and some of the States cannot, if they would—obey your mandate. I hold they are not constitutionally bound to obey it.

Suppose a few of the States should take this view of the subject, and determine to try the constitutional question before the next House of Representatives, which is the only tribunal competent to decide it. Suppose they should say to Congress, You have acted without any authority whatever, and, notwithstanding your command, we choose to elect by general ticket, or to form double districts, as we have done heretofore, where the convenience of the people or the prevention of fraud may require it; we choose to maintain what we believe to be our constitutional rights, in a constitutional manner: what will then be the consequence? The trial of this question before the House of Representatives must necessarily be of such a character as to shake this Union to its centre. The difficulty of constituting that body for this judicial purpose will be of the most embarrassing character. Who shall be the triers? There is no law in existence prescribing what shall be the nature of the *prima facie* evidence of election to entitle a member to take his seat in the first instance. Twenty or thirty members appear at the bar, with certificates of election under the laws of their respective States, and demand their seats. Who shall say to these members, before any House has been formed, You shall not participate in the organization of the House? A scene of confusion worse confounded must necessarily follow; the country will be agitated; months of the time of the body will be occupied in settling this question; and the people of the country will be divided into highly excited parties. Those who have witnessed the delay, and the agitation of the public mind, in consequence of the proceedings of the House on the New Jersey question, will be able to form an idea—and but a faint idea—of the scene which must inevitably be presented, should you pass the present bill. Now, even admitting the law to be constitutional: let me appeal to Senators whether they will, without the least necessity whatever, place the country in such a position.

The States have no other mode of trying the question. Without the slightest disposition on the part of their Legislatures to resist any constitutional law of Congress, but merely for the purpose of having this most important constitutional question settled, they may, and some of them most certainly will, continue to elect by general ticket. They may deem it necessary to assert their constitutional independence of the commands of Congress, and if they do, human ingenuity cannot devise any other mode by which the question shall be decided. If they obey the command, they thus acquiesce in its constitutionality, and establish a precedent which may hereafter essentially impair the just rights of the States.

But, in the case of Missouri, it is now physically impossible that she should obey your law. You have permitted six months of the session to pass away without performing what was your first duty—that of apportioning Representatives among the several States. You have delayed it until so late a period, that her next congressional election must now be held under her present law. The question must then be raised by Missouri, whether she will or not.

Now, why should you involve yourselves in such difficulties? Congress, undoubtedly, possess the power to district the States for the election of Representatives, and however we might complain of such an act as an abuse of power, we could never contend that it was a violation of the Constitution. If you, then, deem the exercise of such a power to be expedient, why do you not perform the duty yourselves, and not impose it on the States, when all the dangerous consequences of such a measure are staring you full in the face?

You say that you desire to prevent the large States from establishing the general-ticket system. But is this the best mode of accomplishing the object? My own individual opinion is decidedly opposed to this system; and so, I believe, is that of a large majority of the people of Pennsylvania. We have elected by districts for the last forty years; but have, for the sake of convenience, occasionally formed some double districts. If left to ourselves, I venture to say that we shall always pursue this course. Your impolitic and unnecessary agitation of the question may produce that very effect which you intend to prevent. The people of Pennsylvania may begin to reflect that either New Jersey, with six Representatives, or New Hampshire, with but five, under the general-ticket system, exercises a greater political influence in

the House of Representatives than the Keystone State does under the district system, with her twenty-eight Representatives, and with a Democratic majority of more than twenty thousand. Each of these two small States enjoys an equality of representation with us in the Senate, and a superior political influence in the House. Beware, then, of how you agitate this question. The very fact of violent party action on the one side naturally produces a corresponding action on the other. Should this extreme measure be adopted (as it probably will be) by a strict party vote, the natural tendency will be towards the other extreme, when we obtain the power. My own opinion, therefore, is, with that of the Senator from Virginia, [Mr. Rives,] that if you will leave this subject to the States, where it has been left for more than half a century, there will be no danger of the evils which you anticipate. But if, on the contrary, you pass the present bill, you may arouse a desire among the people of the large States to establish the general-ticket system. That the second section of this bill will be repealed is inevitable, should the Democratic party again obtain power; (and that they will do so at no distant day is almost certain.) For one, I shall then be glad if we shall be able to stop at the mere repeal, without exciting a spirit throughout the larger States in favor of the general-ticket system. Let me, therefore, appeal most solemnly to my friends on this side of the House not to involve themselves in serious difficulties, in order to avoid an imaginary evil which never has existed, and most probably never will exist, unless their unwise and impolitic legislation should give it birth.

Is there any danger that the States, if left to themselves, will generally adopt the general-ticket system? What has been our past history on this subject? None of the larger States now elect by general ticket, and the tendency of public opinion everywhere is, as I think it ought to be, towards the district system. This has been strikingly exemplified in the State of Alabama. Such is the peculiar position of that State that, with a large Democratic majority in the aggregate, she would probably elect a majority of Whig Representatives to Congress under the district system. Her Legislature, therefore, passed a law to elect by general ticket; and yet so powerful is the aversion in the public mind to this system, that it has overcome political feeling, and a decided majority of her people, by their votes, have determined that the district system shall be restored. And will you, in the face of such a demonstration, set about conquering windmills,

which may, by your own conduct, be converted into giants? You may arouse the slumbering lion, and bring upon yourselves the very evil which you are most anxious to avert.

These considerations ought to make us rather

> ——— "To bear those ills we have,
> Than fly to others that we know not of."

I could say a great deal more; but I desire to bring the debate to a close as speedily as possible. I desire that we shall not render ourselves still more odious to the country than we are at present, by compelling the Legislature of Pennsylvania, which will meet on Thursday next, again to adjourn before we shall have passed the apportionment bill.

REMARKS, JUNE 9 AND 10, 1842,

ON THE APPORTIONMENT BILL.[1]

[June 9.] Mr. Linn of Missouri moved to amend the second section of the bill, requiring Representatives to be elected by districts, by providing that this clause should not take effect as to Missouri, Mississippi, Georgia, and Maine, till after the election of their Representatives for the Twenty-eighth Congress.

Mr. Buchanan said, if he knew himself, he would vote for this amendment without the slightest tinge of party feeling. He wished, if possible, to avoid the dangerous collision which may—nay, which must—arise at the meeting of the next Congress between the Federal and State authorities, should the bill become a law in its present form. Of course, by collision he did not mean the use of force. It was now manifest that, in one or two of the smaller States, where the general-ticket system prevailed, the elections must be held under that system before it would be possible for their Legislatures to assemble and change the law. In cases of this kind, their Representatives would appear and demand their seats. This would produce both danger and delay. The House would be occupied a longer time in discussing and deciding this important constitutional question than they had been in discussing and deciding the New Jersey question. And, besides, who would be the judges? The members of the House would assemble without any organization; for no law had pro-

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 602, 609.

vided what should be the *prima facie* evidence of a member's title to his seat.

He appealed to Senators to consider seriously the consequences which might arise from the rejection of this amendment. It could do no harm, in any possible point of view; and it might save us from a delicate and dangerous question, which might shake the Union.

He did not think there was any weight in the constitutional objection of the Senator from Maryland, [Mr. Merrick.] There were one or two cases under the Constitution which required that we should pass uniform laws, such as in cases of bankruptcy; but the Constitution did not require uniform legislation in prescribing the manner of holding elections. On the contrary, the framers of the Constitution had anticipated partial legislation in this very case. It was intended to secure an election of Representatives to those States in which, from the neglect, refusal, or inability of the Legislatures, they would be deprived of Representatives without the interposition of Congress. It was intended to provide a remedy for the very case now before us.

Mr. Linn's amendment was defeated by a vote of 22 yeas to 24 nays, Mr. Buchanan voting in the affirmative.

[June 10.] The Senate decided, by a vote of 26 to 18, to reconsider the vote of the preceding day, by which the bill was ordered to be engrossed for a third reading. A motion was then made to reconsider the vote by which the following amendment, offered by Mr. Benton, was adopted: "Provided, that each district shall contain, as near as may be, an equal number of inhabitants to be represented."

Mr. Buchanan said: Mr. President, I presume you know, as well as any other Senator on this floor, that it is utterly vain to debate the present question. It has already been decided; and the vote of yesterday will be reconsidered and reversed by the vote of the Senate to-day.

I do not, therefore, rise to discuss the question, but merely to present to the Senate and to the country a faithful picture of our proceedings, or rather of what they will be before the close of the present day.

The amendment proposed by the Senator from Missouri [Mr. Benton] yesterday was so palpably proper, that it seemed at once to be hailed by the general concurrence of the Senate. It was plainly necessary for the purpose of carrying out the principle of the bill. Upon a solemn vote, on the ayes and noes,

only ten Senators of the whole body recorded their votes against it. This was not all. After a considerable interval of time, the same question again recurred, on the question of concurring with the committee of the whole in their report. After debate, this amendment was again adopted, by another solemn vote on the ayes and noes; but sixteen then voting against it.

Thus Senators were twice solemnly committed yesterday in favor of this amendment. And what will be their condition to-day, unless I greatly mistake the signs of the times? These very Senators will turn about to-day, and vote upon the ayes and noes in direct opposition to their votes of yesterday. The record, when made up, will present this astonishing spectacle. Whether this sudden and striking inconsistency will not tend to impair the justly high standing of individual Senators, as well as of the whole body, I shall leave to the country to determine.

But whence this new light which has burst upon Senators? I do not positively know, but I shall hazard a conjecture with a great degree of confidence. No power could have produced such an extraordinary and sudden conversion, except the power of a king who has reigned in these halls, with omnipotent sway, since the commencement of the late extra session:—I refer to King Caucus. He deals with refractory subjects in a most efficient and summary manner. He can change an affirmative vote of yesterday into a negative vote of to-day; and there is no appeal from his mandates.

It is vain, therefore, to resist the execution of this decree; and it is vain to say, in the language of the Senator from Missouri, that, with a full knowledge of the consequences, you are about to provoke a contest between Federal and State authority, which may prove extremely dangerous to our institutions; and this, without the slightest necessity. It would have been easy for you to have avoided any such collision, by excepting from the operation of the bill those States which cannot now, by possibility, obey your law. But you will rush madly on, in full view of these consequences; and this amendment, which you have twice solemnly sustained, will be rejected, for the purpose of depriving the House of Representatives of the power of arresting this dangerous policy.[1]

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[1] The motion to reconsider was carried by a vote of 25 yeas to 20 nays, Mr. Buchanan voting in the negative.

REMARKS, JUNE 15, 1842,

ON THE NAVAL APPROPRIATION BILL.[1]

On motion of Mr. Evans, the Senate resumed, as in committee of the whole, the consideration of the bill making appropriation for the naval service for the year 1842.

The question immediately pending was the amendment of the Finance Committee, proposing to strike from the bill the following proviso:

Provided, That, till otherwise ordered by Congress, no part of this, or any future or existing appropriation, shall be applied to the payment of any officers in the navy appointed after this date, beyond the number in each grade on the 1st day of January, 1841; and that the excess now in the service beyond that number shall be reduced as fast as deaths, resignations, and promotions will admit.

Mr. Buchanan. I by no means rise to make a speech. But, as I intend to vote in favor of the proviso, I wish to explain my vote in such a manner as to place myself in a true position in regard to this question. In the first place, no Senator on this floor can more highly appreciate the absolute and imperious necessity which exists for sustaining the navy than I. I believe it is the best arm of our defence. It is not at all dangerous, and never can become so, to the liberties of the country. It protects us abroad, where we are most in danger; and differs from the army, because, as far as regards an army, we are the most powerful nation on this continent, and need no very large army to defend ourselves. Nor do I intend, in the slightest degree, to reflect upon the Secretary of the Navy, whom I believe to be a very worthy individual. Why, then, should I vote for this proviso? I will state the reasons in a few words. It is somewhat astonishing that, during the fifty years' existence of this Government, this important arm of our defence has never been regulated by law. I have before me the report of Mr. Barbour, made in 1821, when he was chairman of the Committee on Naval Affairs, pointing out the necessity for regulating the subject by law. The same thing has been done year after year; and yet no serious attempt has been made for this purpose. I am very happy to see that my friend from Virginia has taken up the subject, and I hope he will persevere to its accomplishment.

What does this proviso propose? Simply this: That, until

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 632.

Congress shall act upon the subject, the present number of officers in the navy shall not be increased. This is the whole. It is a regulation by Congress, fixing the number as it exists, until there shall be an alteration made by Congress. It leaves it as it is, until the bill of my friend from Virginia shall become a law. Well, now, ought not this to be done? Is it desirable to leave to the Executive Department of this Government the power of increasing the naval peace establishment, while the House of Representatives is compelled to provide the ways and means for its support? Will anybody say that this power ought to be continued in the President and the Senate? It is an anomaly in our system, because it rests with the House to provide the means of payment, while they are not allowed a voice in its creation.

I believe the President has always acted faithfully in regard to nominations for appointments; but I believe, also, that without any intention to act improperly, the importunities, and, if you please, the merits of individuals will induce him in many cases to make nominations of distinguished officers for promotion; and for the Senate to reject them is, in some degree, to cast a reproach upon their characters. The consequence is, the number goes on increasing; and it is almost impossible that we can resist it.

What does the House do by regulating the law? I should not have voted for it, if it had cut off a single officer, because I admit that the navy ought to grow with our growth, and increase with our strength; that the number of our officers and ships ought to be increased in proportion as we extend our trade, and as the wealth of the country increases.

Now, what objections can there be that the matter should remain as it now stands, until Congress otherwise directs? And until some measure of this kind be adopted, Congress will not otherwise direct. The Senator from Virginia may report his bill; but it will share the fate of all its predecessors, and will not become a law within this session.

Now, sir, I admit cheerfully that it would have been much better if they had done this by a separate bill; but the House, being a larger body, can only act efficiently, I suppose, by attaching a clause of this kind to an appropriation bill. They cannot get a law through that House for the organization of the navy within a shorter period than a month; and if we pass this proviso, we shall necessarily act upon the bill of the Senator from Virginia. This, then, is one reason why I shall vote for it.

Another reason is this: I shall not now agree to increase the expenses of this Government, beyond keeping up its present institutions, until I know that revenue will be provided in some way or other to meet the expense. I will not cut down, but I will stand where we are, until I know that some means are provided for relieving the treasury and enabling us to meet the additional expense. I go upon the principle that there is no immediate danger of war; and I would not borrow money at an exorbitant rate of interest, to increase the number of the officers of the navy beyond what it is. Economy and reform I believe to be the desire of all. I would not economize so as to reduce the navy below what it is at present. Let us stop here. Let us pass the revenue bill, to enable us to meet the expenses of the Government.

I am decidedly in favor of the reorganization of the navy; but I will tell the Senator from Virginia what is a very important point—you cannot get men to serve; you cannot man your ships at the rate of wages you pay at present, while merchant-ships hold out greater inducements. You must increase the pay of your seamen.

Having said thus much, merely for the purpose of explaining my vote; and believing that the best interests of the navy, which I desire should be cherished, require that, in the present state of the country, we should not go on too rapidly; and believing that I am sustaining those interests by voting in favor of the proviso, as it has been amended, I shall give my vote in its favor.

REMARKS, JUNE 17, 1842,

ON THE NAVAL APPROPRIATION BILL.[1]

Mr. Crittenden would suggest a proviso in place of that stricken out. It was, that the number of officers shall not be increased beyond the number in the respective grades at present in commission. This was not the same as the proviso stricken out. It goes to the root of the matter, by saying—

Provided, That, till otherwise ordered by Congress, the number shall not be increased.

Mr. Buchanan said he was very glad that the Senator had proposed this amendment. As he had said two days ago, he did

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 647, 648.

not want to reduce the navy a single man—at least so far as regarded the officers. And until they adopted some resolution of this kind, they would never have the navy regulated by law. This was self-evident. It was not the interest of the navy to be regulated by law. The President of the United States was importuned to make nominations: he naturally yielded to the solicitations; and when the individuals came before the Senate, they were usually inclined, out of pure good nature, to vote for the confirmation of those nominations. The consequence was, that the navy was continually being increased, through the good feelings of the President and the Senate, and it was the only branch of the public service of the country that was not regulated by law. He would not assert that the present standard was the best, but it was the standard fixed by an act of Congress. He thought the amendment of the honorable gentleman from Kentucky was better than the proviso inserted by the House, because it goes directly to the point; being a plain legal declaration what should be the number until Congress should otherwise provide.

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Mr. Sevier desired to add a line or two, to the effect that all vacancies for midshipmen shall be filled from States which have hitherto not had their due share of the appointments of midshipmen, if applications be made from such States.

Mr. Buchanan hoped the Senator would withdraw his proposition.

Mr. Sevier withdrew it.

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Mr. Buchanan moved to amend the bill by inserting, after the clause making appropriation for the navy-yard at Philadelphia, the following:

> And for the purpose of preparing the yard for the establishment of a marine railway or floating dock, whichever may be thought advisable by the President of the United States, the further sum of $20,000.

Mr. B. said that, although it might be deemed somewhat inappropriate in the present bill, he could not, under a sense of duty, refrain from asking the Senate to adopt this amendment, even at the then late hour of the day. For many years the navy-yard at Philadelphia had been, he might almost say, shamefully neglected. And for what reason? Our mechanics and shipbuilders were known to the whole world to possess skill equal, at least, to any others in the United States. Vessels were built

there at a cheaper rate than at any other navy-yard, and their excellence was proved by the character of the vessels themselves. But although ships of war, which were the pride of our navy, had been constructed, and could be constructed, at the navy-yard in Philadelphia, they could not be repaired for the want of a marine railway or floating dock. But very recently a vessel of war had to be sent from Philadelphia to another port for repairs.

It was now, he believed, well ascertained that floating docks would answer every purpose of a marine railway or dry-dock. There was no better place in the United States to make this experiment, (if it might still be called an experiment,) than at the navy-yard of Philadelphia. Besides, it would be a work of small expense, when compared with the cost of a dry-dock. The construction of a wharf, and of some other works, was necessary, in order to prepare the yard for a marine railway or a floating dock; and he was anxious that the Senate might pass this appropriation, and thus determine that such a work should be constructed. He feared that, if nothing could be done for the navy-yard at Philadelphia until the Navy Department should move in the matter, it would be neglected hereafter, as it had been heretofore. He therefore trusted that the Senate would determine to commence the work for itself, independently of that department; and thus place us on the same footing with other navy-yards, no better, if as well, entitled to the fostering care of the Government.

The question was then taken on the amendment; and it was rejected, on a count, by ayes 13, noes 19.

The bill was then reported to the Senate, and the amendments of the committee of the whole were concurred in, and ordered to be engrossed for a third reading; which having been done, the bill was subsequently read the third time, and passed.

REMARKS, JUNE 20, 1842,

ON THE ORDER OF BUSINESS.[1]

Mr. Buchanan had anticipated, from what passed on Saturday in relation to the business which was to come up as the special order to-day, that the Senator from Maine would have been quite

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 655, 656–657.

anxious, if not urgent, this morning, to call up the bill in his charge, for extending, for a limited period, the revenue under existing laws. He seemed to think, then, that the bill was of such importance that it ought to be disposed of to-day, or to-morrow at farthest; and it certainly is of great importance that there should be immediate action on that bill, for the 30th of June is approaching very fast. So pressing was the occasion, that he had expected the Senator from Maine would have moved to lay aside all other business, and call up that bill at an early hour to-day. As to the bill under the care of the Senator from Georgia, it was, of course, understood that he had claimed precedence for it. But it was now quite manifest no progress could be made in its discussion this evening; and he knew it would not be advanced without debate, for some of his friends were anxious to express their sentiments on the subject. But who would like to commence a speech at such a late hour? Besides, it was not really a question imperiously calling for immediate action; it would suffer nothing by being laid over a few days.

He confessed he was anxious to see this little tariff question settled without delay. We all know something about it. It is a question which can be promptly decided. He hoped the Senator from Maine would come forward, and, on this occasion, evince his usual energy and persuasiveness in bringing the revenue bill—as he does all bills committed to his charge—at once before the Senate when ready for action.

* * * * * * * * * *

Mr. Buchanan said, the public had been entirely misinformed. There had been a supposition (but a very erroneous and unjust one) that the Whig party had abandoned the President. They now heard, from the very highest authority, that that party had been the constant supporters of the present Administration; and there seemed a little jealousy on the part of the Senator from Kentucky lest he (Mr. Buchanan) should interfere and come in to the support of the Administration. He could assure the honorable Senator, whatever his standing might be with the present Administration—and he trusted it was as high as it deserved always to be—that he (Mr. Buchanan) was the last man in the world to interfere with him in any way. He rejoiced to hear that the Senator and his Whig friends had always been, and were yet—and, he trusted, would ever be—the supporters of the Administration, because he thought a strong and powerful Executive,

within the limits of the Constitution, ought to exist, in order to the proper administration of the Government. He would be exceedingly happy to afford all the assistance in his power to the chairman of the Committee on Finance in calling up the bill which he the other day manifested so strong an anxiety to bring under the consideration of the Senate, and for which the Senator then gave a very satisfactory reason. But gentlemen were now absent upon whom the Senator reckoned as the supporters of the bill; and he (Mr. Buchanan) was ready to admit that, in all party movements, it was a matter of considerable consequence that all the troops should be assembled.

In regard to this measure, he thought it ought to be acted upon, and that with as little delay as possible. He (Mr. B.) had no means of information whatever in regard to the intention of the President, except that derived from his own message. The President, by his message, had declared to Congress that the land fund was necessary for carrying on the Government; and Senators knew that the treasury was almost—he would not say altogether—bankrupt. At such a time as this, when money was so much required for the use of the Government, and when it was deemed important that the tariff bill should be continued for one month, a most important provision—namely, the provision relating to the distribution of the land fund—a provision without which that law would not have passed—was sought to be repealed. If the bill passed in such a shape, and he possessed the power, he would veto it, if it was the last act of his public life. And he trusted the President would do so. He felt confident he would do so, though he had no means of knowing, except from his own message.

The Chair observed that he thought it was improper to allude, in debate, to the course which the President might think proper to pursue.

Mr. Buchanan said he entirely agreed with the Chair that he was out of order; and had only alluded to the topic by way of reply to the Senator from Kentucky.

Mr. Crittenden rose; but, before proceeding with his remarks,

Mr. Archer suggested that the Senator from Pennsylvania was entitled to the floor.

Mr. Buchanan said, as the Senator from Kentucky seemed impatient, he would waive his right.

Mr. Crittenden then proceeded to reply at some length to the remarks of Mr. Buchanan and Mr. Woodbury. He confessed he was somewhat alarmed when the Senator from New Hampshire told them that the bill was to receive the deliberate consideration of the President. The term seemed to him of a singularly oracular character, and that it concealed something that was not intended to be communicated. And the Senator from Pennsylvania had followed this up, by declaring that, if he were President, and had communicated such a message to Congress, he would, nevertheless, veto the bill. He confessed this declaration on the part of the honorable Senator would tend to shake his confidence a little in him (Mr. Buchanan.)

Mr. Buchanan said he presumed that as he did not introduce the subject, it would not be out of order for him to reply.. He had repeatedly expressed his sorrow that there should be a want of harmony in the ranks of the universal Whig party. He had always been solicitous that they should proceed with the utmost harmony, and, as far as possible, accomplish the objects they had in view. They had heard rumors upon one side, and rumors upon the other. But, whatever might happen, he would be sorry to see harmony destroyed or trampled under foot. They had heard of rumored changes—rumors which perplex monarchs had been abroad. And what changes? Was the Whig party again coming into power? Were these golden visions dancing before the eyes of the honorable Senator? He (Mr. Buchanan) could say, with perfect sincerity, that, of all the members of the old cabinet, he had most regretted the retirement of that honorable gentleman; and he would hail with satisfaction his return to office, under the administration of John Tyler. And he sincerely hoped—as the Senator had bestowed upon him an office to which he (Mr. Buchanan) had never aspired—that the Senator himself would be the first officer under the President; and he was certain that the honorable gentleman would speedily settle the difficulties between this country and Great Britain. But as the gentleman had called upon the Senator from New Hampshire for specific information, he (Mr. B.) hoped he might obtain the intelligence; for he was himself desirous of knowing, in relation to these rumored changes, whether there was to be a restoration—though he did not very much like the word, as it presupposed misfortune. But if there were a prospect that all difficulties were to be healed up, no one would rejoice more than himself.

As to the veto, the Senator had asked him whether, if he were President, he would act upon the principles he had avowed in relation to the veto. He would tell the Senator what, if he were President, and if he found the country in deep distress—the national treasury bankrupt—and if it were almost impossible, with any duties that could be levied, to supply the wants of the Government; if he found, he would not say war impending, but doubts and difficulties hanging over their foreign relations—clouds of war hovering upon our borders; and if Congress, at such a moment, under the pretence of passing a revenue bill, should attempt to take away from the treasury the resources they possessed,—he would tell the Senator what he would do: he would veto the bill, and he would appeal to God and his country for the correctness of what he did. He did not pretend to know what the President would do. The Senator himself was better able to declare than he was as to what the President would do in reference to such a bill, if it should pass the two Houses. What was the nature of the bill? It was a bill extending, for a few days, the revenue law; and, at the same time, to take out of the treasury a sum which had been accumulating there for several years, and which, properly, should be applied to the public service. He would tell the honorable Senator what he was afraid of: he was afraid that the bill was not so much intended to afford incidental revenue, as it was to abstract from the treasury a large amount of its funds. He was afraid the great Whig party had determined that the revenue should not be the sole object of the bill.

He (Mr. B.) had never been very successful in influencing high functionaries of the Government. It was many years since he had made any attempt; and he apprehended that, were he to attempt, with ever so much assiduity, to influence the President of the United States, he would be entirely unsuccessful. In the case of the fiscal corporation bill, although everybody disapproved of it, yet, as they supposed they must take that or get nothing, they were fain to vote for it; and he hoped the same Christian spirit would actuate his friends on the opposite side now, in regard to this little tariff bill—that they would agree to take the revenue bill, even if they should be deprived of the public lands.

He was asked what supplies he had voted for; he believed he had voted for all the primal supplies of the Government, and for very liberal supplies, too—for twenty-four or twenty-five millions of dollars this year; whilst no estimate or calculation which

could be made of the expenses exceeded seventeen millions. And with a deficit staring them in the face this year, of at least seven millions, they were seriously told that they ought to take away the land fund from the treasury, and give it to the several States.

How he had been drawn into this debate, he could not conceive. He had expressed himself satisfied with the explanation of the Senator from Maine as to not bringing forward the tariff bill to-day; but it seemed that some diplomatic language had been used by the Senator from Kentucky and the Senator from New Hampshire, both of whom had been members of the Cabinet; and, in the mêlée, the Senator from Kentucky had directed a shaft towards him, (Mr. B.) He would have been glad if the Senator had spared him; but he supposed the Senator was so delighted at the idea of a change in the Cabinet, that it would be difficult to restrain his exultations. Upon this ground he (Mr. B.) freely forgave him; and he would add the hope that the Senator might realize all his expectations.

The question was then taken on Mr. Berrien's motion to take up the bill to provide further remedial justice in the district courts of the United States, and decided in the affirmative—yeas 20, nays 17: and the bill was taken up as in committee of the whole.

REMARKS, JUNE 24, 1842,

ON THE REVENUE BILL.[1]

The Senate having resumed the consideration, in committee of the whole, of the bill to extend for a limited period the existing laws for laying and collecting duties on imports, commonly called the "little tariff bill," Mr. Evans of Maine moved to strike out the proviso in the bill and substitute the following:

> That the distribution of the proceeds of the public lands, authorized and directed by the act of Congress passed the 4th of September, 1841, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," shall be, and the same is hereby, suspended and postponed until the 1st day of August, 1842; and the said act of the 4th September, 1841, shall be no otherwise or further affected or modified, than merely to postpone to the said 1st day of August next the distribution of the said proceeds directed by that act to be made on the 1st day of July, 1842; anything contained in this act, or the said act of the 4th of September, 1841, to the contrary, notwithstanding.

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 677–678.

Mr. Buchanan said he did not rise for the purpose of entering into the general debate, but merely to present to the Senate a distinct view of the question before them. He would make a single observation upon the question as to whether the amendment proposed by the Senator from Maine [Mr. Evans] would operate as a permanent repeal of the proviso to the sixth section of the distribution act. He had, on yesterday, expressed the opinion that such would not be the case; and that opinion remained unaltered. And he believed that no person, after a careful perusal of the amendment, could place any other construction upon it than he had done. But he had risen at present merely to state the true operation and effect of the proposed amendment.

In his opinion there was but little difference between the amendment and the proviso which it proposed to strike out. Under the bill as it came from the House, the first instalment under the distribution law would be payable to the States on the 1st day of July; whilst the amendment of the Senator from Maine would postpone the payment until the 1st of August. This was the whole difference. If Senators supposed that the amendment changed the original bill in any other particular, they were mistaken.

The great question still remained, whether any portion of the proceeds of the public lands ought to be distributed, in violation of the proviso to the sixth section of the distribution law; and this question was as fairly raised by the Senator's amendment as it had been by the proviso to the bill as it came from the House. The avowed and manifest purpose of the amendment was to save to the States the first instalment under the distribution law, notwithstanding the bill to which it was annexed increased the duties on imports to a rate above twenty per cent. If this bill were to become a law before the 1st day of July, without any proviso whatever, the distribution of the instalment, which would otherwise have become due on that day, would be suspended and gone. This bill, then, in any event, whether the proviso from the House or the amendment of the Senator from Maine shall prevail, will save the first instalment for the States. The amendment will accomplish this purpose as effectually as the proviso from the House. Both equally preserve the right, and prevent the forfeiture. It was in vain for Senators to attempt to evade the question of principle by any such modification of the original bill as the amendment proposed.

If a revenue bill raising the duties to 40 or 50 per cent. were

to become a law before the 1st day of August, and if it were even silent on the subject of distribution, the right to this first instalment would be irrevocably fixed, and it must be paid over to the States on that day. The right is not affected by this amendment; but, to use its own language, the payment merely "is suspended and postponed until the 1st day of August, 1842."

In point of principle, then, the question arises as much upon this amendment as if it were a proposition absolutely to repeal the proviso to the sixth section of the distribution law. The question, shall the operation of this proviso be suspended for one month, and in regard to one instalment, involves the principle as effectually as if the proposition were to suspend it forever. It is true, that the interest to be affected would not be so great; but the principle which must govern is the same in both cases. The amendment of the Senator from Maine, then, is less obnoxious than the original bill, only because it extends the time of payment for one month; and this indulgence is given in the avowed hope that the general revenue bill, which we expect from the House, will contain a clause to repeal absolutely the proviso to the sixth section of the distribution law. This, then, is the favorable moment to decide the question; and fortunate it is that it arises upon a bill of comparatively small importance.

This (said Mr. B.) was all that I had intended to say when I rose. But I must proceed a little further. The necessities of the treasury, as well as the great interests of the country, imperiously demand the passage of a revenue bill at the present session of Congress. Whilst I would strictly limit the amount of revenue to the necessary expenditures of the Government, and the gradual extinguishment of the existing public debt, yet I would make just and reasonable discriminations in favor of domestic manufactures. If we shall not split upon the rock of distribution, such a revenue bill as ought to be satisfactory to all interests will become a law before the close of the present session. But I confess I fear the result. I now say, in my place, that all these great interests are to be perilled by connecting them with this miserable scheme of distribution. It seems to be the determination that they shall rise or fall together; and that the treasury shall become bankrupt, and the labor of the country shall lose all incidental protection, unless my Whig friends can obtain the proceeds of the public lands for the States. They have, in effect, resolved that no adequate revenue shall be provided for the country—no incidental protection beyond a duty

of 20 per cent. shall be afforded to manufactures, unless at the same time they can repeal that clause in their own favorite law, which suspends the distribution of the proceeds of the public lands when duties shall be raised above twenty per cent. I now entertain serious apprehensions whether any satisfactory revenue law will pass at the present session. In that unfortunate event, how can Senators justify their conduct to their constituents? Will it be any answer for them to say, we would not provide for the wants of the treasury, and afford incidental protection to the great interests of the country, because we could not, in the same bill, obtain the distribution of the proceeds of the public lands?

And, after all, about what are we contending?

The receipts from the public lands during the first six months of the present year will amount to about $400,000, according to the statement of the Senator from New Hampshire [Mr. Woodbury.] The expenses to be deducted from this sum, under the provisions of the distribution law itself, and the percentage to the new States, will reduce the amount to about $260,000; but, to give a broad margin, I shall say $300,000. The share of the State of Pennsylvania would then be about $30,000. And for this comparatively paltry and pitiful sum, would you jeopard the great interests of the country and destroy its prosperity? I have been amazed beyond expression while witnessing the pertinacious obstinacy with which Senators hold on to the land distribution—and that, too, at a time when the ordinary revenue of the year will fall short of its ordinary expenditures at least seven millions of dollars, and when there is an existing national debt of more than twenty millions. They not only insist upon giving away what they have not got to give, but, unless they are permitted to do so, that every interest of the country must be paralyzed, rather than that they should yield. Such a spectacle, I venture to say, was never before presented in the legislation of any Government. In debt for the past, and without the means of meeting our current expenses, we are struggling to give away a few hundred thousand dollars which we have received from the public lands.

What connexion necessarily exists between the two subjects? Why not separate them? Let us have one revenue bill, and another bill to repeal the proviso contained in the 6th section of the distribution law. Then we can each act freely, fairly, and independently.

They claim to be great friends of domestic manufactures; but how do they manifest their friendship? Suppose they can

succeed in passing a revenue law, with the distribution clause annexed to it: what will be the consequence? That which the manufacturing interest ought most to wish for is a permanent, fixed arrangement of the tariff. The manufacturers ought to know on what they may depend, and then they will make their business conform to it. Changes in the revenue laws, from year to year, make their business a lottery—and a lottery which has ruined thousands. Permanency—permanency is what they ought most to desire, and what they do most desire. But can any person for a moment suppose that any tariff law will be permanent which contains a clause for distribution? The moment the party which has ever been opposed to squandering away the land fund, that they consider a sacred fund for the defence of the country, shall obtain power, the question will again be agitated; this fund will be restored to the General Government; and a new adjustment of the tariff must be made. This will be the inevitable consequence.

The subject of domestic manufactures will thus continue to be involved in the party politics of the country—an event more to be deprecated by its friends than any other result. Never was there a more propitious time than the present moment for settling this great interest upon fixed and permanent foundations: and never was it in greater danger, from its forced and unnatural connexion with land distribution.

My opinion in regard to the true construction of the amendment of the Senator from Maine remains as it was yesterday. It is, I think, too clear for argument, that it is not a general, but merely a temporary repeal, for one month, of the proviso to the sixth section of the distribution law. If the construction of my friend from Mississippi [Mr. Walker] were correct, we ought all to rejoice. If he will prove that this amendment is an absolute and perpetual repeal of the proviso,—by the very same arguments, I will establish that it is a repeal, not merely of the proviso, but of the whole distribution law, of which it is but a part; and thus we shall get clear of the law itself in the easiest possible manner. The amendment of the Senator from Maine is not so bad as the clause proposed to be stricken out, simply because it postpones the payment one month longer; and, in the present state of the treasury, if I vote at all, I shall vote in its favor. I need scarcely say that I am opposed to both; and, whether the one or the other be adopted, I shall vote for striking it from the bill.

Mr. Archer considered that one great issue was overlooked—

that the whole revenue of the United States would cease to exist after the 30th of June, as triumphantly proved by the arguments of the Senator from Connecticut yesterday. Would the Senator leave the Government without the means of being carried on, and refuse to pass this bill?

[Mr. Buchanan, from his seat, said, Then strike out the proviso.]

He would answer the Senator by saying he would readily do that, if it was in his power. Sooner than not provide revenue, he would assuredly strike it out. He could not, under any contingency, allow this Government to fall into dissolution, deprived of the proper means to carry it on.

His own conviction was, that this distribution should not have been introduced in this bill at all. But if the House will play this game of pertinacity, it shall play it without his participation. He would vote for this proviso, because he could not control the measure by wholly excluding the subject from this indispensable revenue bill. A power which he could not control forced these subjects on him; and he was bound to take both, or reject both. He should, therefore, take both.

Mr. Kerr remarked that he was bound by no supposed compromise or agreement in relation to this subject; and, heartily approving of the amendment of the Senator from Maine, he would give to it his support.

Mr. Archer observed that he had risen to make a correction. The Senator from Pennsylvania had said he understood circulars had been issued by the Secretary of the Treasury, stating the manner in which the duty was to be collected. He had just learned that the circulars issued by the Secretary of the Treasury were the very reverse—to say that he could give no directions, having referred the matter to the Attorney General, who had not yet returned his answer.

Mr. Buchanan said the Attorney General's answer had been returned.

Mr. Archer said he had not heard of it. He then made some further explanations.

Messrs. Buchanan and Walker showed that the law of March, 1833, (the compromise act,) taken in connexion with the law of 1832, and subsequent laws recognising the limitation of 20 per cent. contained in the compromise act, left no possible doubt that the revenue could be collected after the 30th of June, 1842; and that, therefore, there was nothing in the objections

urged by the Senator from Connecticut, [Mr. Huntington,] and the Senator from Virginia, [Mr. Archer,] that the Government would be left without revenue if this bill was not passed.

REMARKS, JUNE 25, 1842,

ON THE ARMY REORGANIZATION BILL.[1]

On motion of Mr. Preston, the Senate took up, as in committee of the whole, the bill reported from the Committee on Military Affairs respecting the reorganization of the army, and for other purposes.

The bill having been read—

Mr. Preston said the Committee on Military Affairs had accompanied the bill with a short statistical report, with the view of relieving them from any necessity of explaining the provisions of the bill. That report, he believed, would give all the information necessary, and covered all the grounds needing explanation.

After some debate, a motion was made to strike out the second section of the bill and to provide, by amendment, that the duties of superintendent at the armories at Springfield and Harper's Ferry should not be performed by army officers, but should be confined "to the civil superintendents, of competent knowledge, as heretofore." This amendment was supported, among others, by Mr. Tappan of Ohio, who thought that the military superintendents would not understand the manufacture of arms.

Mr. Buchanan said he was inclined to agree with the Senator from Ohio; but he would appeal to the chairman of the Military Committee whether it would not be best to exclude those doubtful clauses, and allow the bill to pass through at once. The bill would only be retarded by these amendments. The subject might be introduced as a separate measure.

After further debate, the motion to strike out the second section and adopt Mr. Young's substitute was carried, Mr. Buchanan voting in the affirmative.[2]

Mr. Buchanan moved to strike out the third section, and he hoped the chairman of the Military Committee would consent

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[1] Cong. Globe, 27 Cong. 2 Sess. XI. 684, 685.

[2] In the House, however, this amendment, June 29, 1842, was not concurred in. (Cong. Globe, 27 Cong. 2 Sess. XI. 692.)

to its being struck out without rendering it necessary that he should detain the Senate with any remarks.

Mr. Preston said he could not consent to the proposition.

Mr. Buchanan conceived that every argument employed in the other case was applicable to this. The present arrangement gave bread to a very large number of women in Philadelphia, and great interest was felt in that city that the office of Commissary General should be continued.

Mr. Preston observed that as this office at present exists, it was a mere reward for political services. The duties of the office can be just as well performed by the Quartermaster's department, without any additional expense. It is altogether useless, and somewhat expensive. It was true, there was some interest felt in Philadelphia. There was a system of industry introduced there by General Irvin. But he understood the prices were 25 per cent. higher than they need be. He entered into some details to show that the work would be better done, and cheaper, than it is at present under the Commissary General. For those reasons, the committee had recommended the abolition of this office.

Mr. Buchanan insisted that, instead of the work costing 25 per cent. more, directly the contrary was the fact. And if the chairman of the Military Committee made that a ground of argument, he (Mr. B.) should ask an adjournment, that he might have time to prove the fact.

Mr. Preston. I take back the assertion, sir, sooner than adjourn before we dispose of the bill.

Mr. Buchanan proceeded at considerable length to prove that the work was not only better done, but cheaper, by these women at Philadelphia, than it could be in any other way. He was anxious for the passage of the bill. He regretted that extraneous matters had been introduced into the bill. He hoped the same measure of justice would be meted out to Philadelphia as to Springfield and Harper's Ferry.

Mr. Preston explained the circumstances under which the Military Committee had considered it necessary to introduce these clauses into the bill. He had in his hand a letter from a manufacturer offering to take a contract blindfold, at a reduction of 25 per cent. on the Philadelphia prices.

Mr. Archer submitted to the Senator from Pennsylvania the fact that the cases were not analogous. These ladies did not assemble together and complain to Congress that they were sub-

jected to strict military discipline in the making of the clothing upon which they were employed. There could be no analogy in the two cases. All knew that the proper and the only purpose of this Commissary General's office was, to have it as the receptacle of political patronage.

Mr. Buchanan replied to the observations of the chairman of the Military Committee and the Senator from Virginia. The proposition was, to concentrate all the power in the bureaus at Washington. The object was one of centralization. If the office of Commissary General was abolished, the business would not be continued in Philadelphia for one year. They would break up the whole system which has been pursued there, and give the contracts wholesale, and to some man who would bid for it blindfold—as had been remarked by the chairman of Military Affairs, [Mr. Preston,]—who would consent to furnish the clothing at 20 per cent. less than it was now purchased; and who, to save himself, would cheat the Government in the quality. He then called for the yeas and nays on this question; which were ordered.

Mr. Conrad asked how the women engaged in making the clothing are to be either benefited or injured by the office of Commissary General being abolished. If these women continue to perform the work better and cheaper at Philadelphia than elsewhere, will not the Quartermaster General give it to them in preference to any more expensive competitors?

Mr. Buchanan was always unfortunate in raising up hydras against him. It appeared now that there was another Richmond in the field. The object appeared to him to be to create centralization here under the army. It would not be a year till the making of this clothing was brought here from Philadelphia, even if it was to cost 20 per cent. more.

Mr. Preston replied, exonerating the Military Committee from any such views as seemed to be imagined.

Mr. Walker advocated the motion of the Senator from Pennsylvania. He hoped, if it was necessary to discontinue this office, some more suitable time would be taken for doing it, and not when the effect would be to throw out of employment such a large number of helpless women in the city of Philadelphia, whose sufferings, no doubt, were sufficiently great under the pressure of the times. He appealed to the Senator from South Carolina [Mr. Preston] not to commence his retrenchment at

this point, where it would operate so oppressively on helpless females.

Mr. Preston briefly replied, stating that the circumstances of the Government demanded retrenchment of useless offices.

The question was then taken on Mr. Buchanan's motion to strike out the third section, and resulted in the negative—yeas 12, nays 17.

Mr. Buchanan moved an adjournment; which was negatived.

Mr. Benton observed that it was not the intention of the committee to impair the operations of the department in Philadelphia. If any one had offered to do the work for 20 per cent. less than it is done there, it must be in view of cheating the soldiers.

Mr. Buchanan considered that unless the city of Philadelphia was designated in the bill, the work would be taken away; and on his motion,

The Senate then adjourned.

REMARKS, JUNE 29, 1842,

ON THE ARMY REORGANIZATION BILL.[1]

Mr. Buchanan rose to renew the motion which he had made on Saturday, to strike out the third section of the bill, which proposed to abolish the office of Commissary General of Purchases.

He would detain the Senate but a few minutes upon this question. He had desired the postponement of the question on Saturday, that there might be a full attendance of Senators; but he was sorry to perceive that the seats were now as empty as before. He had received very minute information upon this subject; and for it he was indebted to the Senator from Missouri, although he came to a very different conclusion to that at which the honorable Senator had arrived. The office in question, he believed, had been established at Philadelphia about twenty years ago. And it was admitted, on all hands, it had been conducted in the best possible manner. He had it upon the very best authority, that all that was necessary to be done had been done, and that in the best possible manner. Indeed, it had been stated, and he believed with correctness, that it had only been since the

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 692–693.

establishment of the present office that the work had been done according to sample. There had not been a proper degree of responsibility, and the soldiers suffered in consequence. Since its establishment he believed there had not been a single complaint or representation from any quarter, requiring a change.

The War Department was entirely satisfied with the manner in which the work was done; and, he would ask, then, where was the necessity for making a change? Should they be called on to do so, merely upon the suggestion of the chairman of the Committee on Military Affairs? He would admit very cheerfully that considerations of private convenience and private distress ought not to prevent the Government from acting in such a manner as may be deemed requisite for the public interest; but, so long as there was no abuse to be remedied—no injury to be redressed—what necessity was there for breaking up this establishment, and producing very great distress and misery among the great number of females now employed? The chairman had informed them that the work might be done more cheaply—that contracts had been offered to do the work at 20 per cent. less than it is now done. As certainly as this scheme was adopted, and the work given out by contract, so certainly would the work be badly done, and the soldiery suffer, as they did before the establishment was formed. And he would ask if there was any great impropriety in placing the superintendence in the hands of a civilian. The quartermaster of the army, or one of his attachés, might be a very capable person for discharging this duty; but he is not permanently located; he comes to-day, and goes to-morrow, at the command of his superior. But, in an office of this kind, there should be a person permanently located, responsible, and liable to be removed in case he does not discharge his duty properly. He would ask again, then, why should there be a change? He hoped the Senate would not sanction a change, but leave well enough alone, until some inconvenience were shown to result from the continuance of the establishment.

There might, at one time, have been political reasons for abolishing the office; but no such reason could now be said to exist. The result of placing the superintendence under the control of the Quartermaster's Department would be to concentrate every thing here. The removal of the establishment to this place would be the necessary consequence, and he believed its removal would occasion a great deal of suffering and distress.

He had had an intention of saying a good deal upon this

bill, and of the utter want, as it seemed to him, of a necessary and proper economy, that would follow from the disbanding of soldiers, and leaving the officers on pay; but he would take some other opportunity to do it. He hoped the Senate would strike out the section.

Mr. Benton did not know why the Senator from Pennsylvania should talk of *removing* the office from Philadelphia: it was an office taken there about twenty years ago, for the purpose of having the work done on the most favorable terms. There was no special right that it should be there; but Philadelphia is a city where facilities are accumulated—buildings have been erected at a cost of $100,000—and the language of the Quartermaster General is, that the work can be done there better and cheaper than elsewhere. He makes no sort of proposition to remove the establishment. It could not be removed here, without great impropriety, and under appropriations for the purpose, which Congress would not be likely to grant. The Quartermaster General is obliged to keep an officer in Philadelphia, and his superintendent might as well have charge of the establishment as not; and this can be done by dispensing with the expense of a Commissary General of Purchases. The object was, to put this establishment under one of the bureaus. He was wholly opposed to allowing such offices to become political rewards for partisans. The citizens of Philadelphia, taking an interest in the matter, had suffered themselves to be unnecessarily alarmed.

Mr. Buchanan said he had listened attentively during the whole debate; and though he would confess some abuses had been pointed out in the superintendence of the armories, yet he was decidedly in favor still of a civil superintendence even over the armories. He could not comprehend why a civilian was unable to enforce the rules and regulations with as much efficiency, and with as much satisfaction to the workmen, as a military man. Though he was willing to defer to the opinions of those who had spoken upon the subject, yet he was convinced that it was infinitely better to continue a civil superintendence.

And here was an office in which there had been, confessedly, no abuse whatever; and it was one which, from its very nature, ought not to be intrusted to a young and inexperienced officer. There was a degree of responsibility requisite, as well as permanent residence. Numberless contracts were required to be made, and the work to be done was in no way connected with

military affairs, except to procure suitable clothing for the soldiers; and a civilian would be quite as good a judge in such matters as a military man.

If the Senator from Missouri had the power, and his life could be perpetuated as long as I could desire it should be—[Mr. Benton. That would be too long.]—he could never expect to place that establishment on a better footing, by changing the present superintendence. The inevitable consequence of permitting the work to be done by general contract would be that it would be improperly done. The present arrangement was an excellent one. The Quartermaster General was a check upon the superintendent; but, by changing the superintendence, the responsibility would be lost. The effect would be to create a new bureau in the War Department. He hoped, therefore, the Senate would permit the matter to remain in the condition in which it had been for the last twenty years.

Mr. Preston trusted that the argument of the Senator from Pennsylvania would have the effect which he (Mr. P.) conceived it ought to have—in favor of the change. The tendency of his argument is, that this ought to be a great eleemosynary establishment, for the benefit of Philadelphia. Now, if the public interests required that the establishment should be brought here, he could see no reason why it should be left in Philadelphia. These local interests, he hoped, were now broken up, and a wider and more comprehensive policy would prevail. The contracts may be given anywhere—to a man in South Carolina, or a man in Boston; and there was no reason why it should not, if the public interest required it. The Senator admits the propriety of having the establishment under the control of some retired general officer of the army; but he considers he ought to be compelled to live in Philadelphia, because a former general officer had located the establishment there. That was a thing to be dependent upon the best interests of the Government. If these interests require the continuance of the establishment in Philadelphia, it will be continued there.

Mr. Buchanan rose, he said, to disabuse the Senate, and to set the honorable Senator from Missouri right as to his (Mr. Buchanan's) wishing to favor a local monopoly. It was no such thing. He was merely contending that a civil officer would be better fitted for the superintendency of this matter, than a military one. And that, wherever the establishment might be located, (and that it would not long remain in Philadelphia, if

the bill passed, he fully believed,) the superintendent should be a man who was acquainted with the people, a permanent resident among them. As to the economy of the thing, when they came to consider the double rations, he would have something to say upon that subject.

The question was then taken on Mr. Buchanan's motion to strike out the third section; and it was decided in the negative, without a count.

REMARKS, JULY 1, 1842,

ON THE TARIFF.[1]

Mr. Buchanan presented to the Senate the proceedings of a mass meeting of the citizens of Pittsburg and its vicinity, held on the 22d ultimo, in favor of a protective tariff. Mr. B. said that, from the names appended to the call for this meeting, (numbering, as they did, about fourteen hundred,) as well as from the names of its officers, and those who addressed it, there was no doubt that the meeting was what it purported to be, "without distinction of party." He would also say that, from his knowledge of the individuals who had composed this meeting, he believed they were men of as much intelligence, respectability, and moral worth, as any similar number which could be convened in any portion of the United States. The resolutions which they had adopted were all decidedly in favor of a protective tariff.

Mr. B. said he would take this occasion to remark, that since he had been in public life, there never had been so propitious a moment as the present for adjusting the tariff question upon a permanent and satisfactory basis. If the hopes of the country upon this subject were destined to defeat, it was now rendered manifest that it would be solely because of its forced and unnatural connexion with the distribution of the proceeds of the public lands. The revenue necessary to meet the expenses of the Government, and gradually to extinguish the existing public debt, would require the imposition of duties sufficiently high to afford all the incidental protection to manufactures which they require. In the assessment of these duties, whilst revenue should be his main object, he would discriminate—and especially would he discriminate in favor of such manufactures as were essentially

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 702.

necessary to render us independent of foreign nations in time of war. He concurred entirely with General Jackson in his celebrated message to Congress of the 16th January, 1833, in relation to the South Carolina controversy,—that it would not be proper to provide that "the same rate of duty shall be imposed upon the protected articles that shall be imposed upon the unprotected; which, moreover, would be severely oppressive to the poor, and, in time of war, would add greatly to its rigors." No civilized nation upon the face of the earth had ever adopted a uniform horizontal scale of duties, upon all articles, whether of great or small bulk or value, or whether their importation were prejudicial or beneficial to the country. And whilst he would not consent to raise one cent more of revenue than was necessary for an economical expenditure of the Government, he would discriminate, moderately and judiciously, in favor of all the great interests of the country, whether they were agricultural, mechanical, commercial, or manufacturing.

REMARKS, JULY 5, 1842,

ON JUDGES' SALARIES.[1]

The Senate then took up, as in committee of the whole, the bill to increase the compensation of the judge of the district court of the United States in the district of Louisiana.

One amendment was to reduce the proposed salary of the judge of the United States district court of Louisiana from $5,000 to $4,000; and the other to add that the salary of the judge of the United States district court of Mississippi shall be $3,000 from the passage of this bill.

The first amendment was adopted without a division.

The question then came up on the second; when—

Mr. Smith of Indiana proposed to amend the amendment, by an addition providing that the salary of the judge of the United States district court of Indiana should be $1,500. Mr. S. explained the reasonableness of placing the federal judge on the same footing, in point of salary, as the judges of the superior courts of the State.

Mr. Young asked the Senator from Indiana to accept, as an addition to his amendment, the words "and Illinois each $1,500."

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[1] Cong. Globe, 27 Cong. 2 Sess. XI. 719, 720.

The salary of the district judge of Illinois, at present, is only $1,000.

Mr. Smith accepted the amendment.

Mr. Buchanan said, there were some things so strange, that if they were not witnessed with our own eyes, they would scarcely be believed possible; and one of the strangest of all occurrences, during the present session, he thought, was the attempt at this time, and under the present circumstances, to make an increase in the salaries of judges, or of any other public officers. They had heard much about retrenchment and reform; and it was absolutely necessary that there should be retrenchment and reform. The national treasury was at this moment empty, and they were under the necessity of borrowing money for the ordinary expenses of the Government. Of all things, then, that had occurred within the history of this country, in his opinion, the attempt, at such a time, to increase these salaries, was the most extraordinary. He would not deny that the salaries of the judges might be adjusted beneficially. But at this moment, when the States themselves—or some of them, at least—were about reducing the salaries of their officers, to embark in a general system of raising the salaries of the judges of the federal courts appeared to him to be completely at war with every profession on the part of both political parties in this country. The subject had been repeatedly before the Senate, and they had attempted to act upon it in days gone by; but the attempt had never succeeded.

In regard to the duties of the judges of the district courts of the United States in the States of Indiana and Illinois, they could not be very onerous. There were no revenue cases to be there adjudged, nor suits for seamen's wages; indeed, scarcely anything which particularly belongs to judges of the United States district courts. And in regard to the duties which they would have to perform under the bankrupt act, he thought he might venture to assure Senators that these duties would be very fleeting; he believed there was no probability that they would continue another year. Still it might be possible that the salaries of some of the judges may be too low; but it would be observed that the situation of judge of the district court of the United States was one of eminent respectability and dignity, and should not be sought for by any man who had not passed many years in practice, and acquired, in the course of that practice, a decent competency.

It was a desirable position for one who had passed the more active portion of his life in the practice of the profession of law, and would naturally be sought for by the most eminent men in the State. He certainly thought, therefore, that at this particular period they were only wasting time by discussing the subject, for he was convinced it was utterly impossible that they would determine to enter upon an increase of salaries generally; and any one who was acquainted with the transaction of business in this body must know full well that if they began by raising the salaries of three, four, or five judges, they would be forced to go on and place all upon an equal footing. The judge of the United States district court for the western district of Pennsylvania did not receive as much as the judge of the State court; and if any increase was to take place it would be as necessary in that case as in any other. But what he protested against was, that at this time, and under the present circumstances of the public finances, every dollar of the increased salary must be borrowed, and at a high rate of interest, when it was the most unpropitious period that could be imagined.

Mr. Berrien admitted that the bill was obnoxious to many of the remarks made by the Senator from Pennsylvania. It was not a moment to increase the expenditures of the Government; but if it should be found that, in order to secure adequate talent, it might be necessary that, in a particular instance, Congress should authorize an increase of salary, he did not believe, lamentable as was the condition of the treasury, that the condition of the country was so low as to suspend its indispensable action. It had been proved that no adequate talent could be got in Louisiana for the salary heretofore allowed.

[Mr. Buchanan asked, "Did it not amount to $5,000?"—and was answered in the affirmative.]

It would not command the services of persons of the best ability and practice. In many instances, it had fallen under his own observation that it was extremely difficult to obtain the consent of competent persons to accept the office. The Judiciary Committee did not go beyond these two cases, not conceiving so good a case made out for the other applications for increase of salary.

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Mr. Buchanan did not expect to have occasion to speak again on the subject. But the Senator from Mississippi had taken occa-

sion to make two speeches chiefly in reference to him and his State; and he found himself obliged to say something in reply. His honorable friend from Mississippi, in consequence of the goodness of his heart, although anxious for retrenchment and reform in the abstract, was carried away by his friendship for individuals, to argue against the very principle he should uphold without exception. He (Mr. B.) argued that, if the principle was once to be established that those officers on whom extraordinary labors fell, should be paid in proportion to their labors, there would be no knowing where it was to stop; for there would be applications on that ground, from every grade of officers in the public service, from the junior clerks to the heads of departments. He had himself refused to bring forward the claim of his personal friend (the judge of the western district of Pennsylvania) for an increase of his salary, because he thought this was not the time.

REMARKS, JULY 8, 1842,

ON THE TARIFF.[1]

Mr. Buchanan said he rose to make an explanation, not a speech. The Senator from South Carolina [Mr. Calhoun] had stated correctly that the late distinguished Senator from Kentucky [Mr. Clay] had contended that a duty of twenty per cent. could be collected under the compromise act of 1833 after the 30th June, 1842, and he [Mr. B.] had argued on the opposite side of the question. After the remarks of Mr. Clay, he had carefully examined the question, and become convinced that he was wrong; and he had at the time expressed this conviction to several Senators now present. It was his intention to have avowed this change of opinion upon the floor; but whether he had done so or not, he could not now recollect. He had not the slightest doubt but that a duty of twenty per cent. could now be collected under the existing laws. He made this explanation solely for the purpose of showing that he had changed his opinion upon this point of law—not under the pressure of existing circumstances, but at a time when no such circumstances could have been anticipated. When he expressed the opinion, a few days ago, that twenty per cent. duty could be collected, it was an

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 734.

opinion which had been formed and expressed shortly after the debate between the late Senator from Kentucky and himself.

He had never prided himself much on his consistency; though he believed he had changed his opinions, deliberately formed, as seldom as almost any other public man. The man who never changed must have been perfect at first; and all experience, and all the lessons of wisdom, were thrown away upon such an individual. He had changed his opinion upon this subject, and if he lived, he might change upon others; and when he did, he should not hesitate to avow it.

REMARKS, JULY 22 AND 27, 1842,

ON POSTAGE REDUCTION.[1]

[July 22.] The Senate bill, No. 275, "to reduce and equalize the rates of postage; to limit the use, and correct the abuse, of the franking privilege; and for other purposes," was taken up, as in committee of the whole.

Mr. Buchanan requested the bill should be read.

The Secretary proceeded for about half an hour with the reading of the bill, which was of great length, and went into minute details of alterations and new regulations; when

Mr. B. observed that he had no idea, when he called for the reading of the bill, that it was of such great length, or that it was to establish a new code of post office rules and regulations. He would withdraw his request to have the bill read through.

The further reading being dispensed with,

Mr. Merrick said it was his intention to have the bill read and amended section by section.

He moved several verbal amendments to the first section, which were adopted.

Mr. Buchanan inquired what would be the reduction of the post office income by this bill.

Mr. Merrick observed that it was impossible to conjecture how much the income of the department would be affected by the change; for, although in some respects the postage would be reduced so as to conform to the small Federal coin in circulation, that reduction, it was expected, would produce an augmentation

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[1] Cong. Globe, 27 Cong. 2 Sess. XI. 776, 796.

of the number of letters transmitted by mail. Besides, there were other sections of the bill calculated to increase considerably the receipts of the department.

Mr. Buchanan would like very much to have had some calculation of the amount of reduction which this bill would effect in the post office income.

Congress had been in session, with the exception of a recess of two months and a half, since the 31st of May, 1841; and it was hoped this session would close in two weeks; but it could not be expected this bill could be got through in that time. He thought it would be better to let the matter lie over till next session.

Mr. Merrick observed that it was a mistake to suppose this was a new code of post office laws. It was only intended to reform some crying abuses, and prevent, if possible, the department from falling in arrears; as there could be no doubt that, if the laws in existence were enforced, the department would be fully able to pay its own expenses. He had no doubt, if Senators would give their attention to the bill for a short time, there would be no difficulty in passing it without encroaching on the unfinished business yet on the calendar.

Mr. Calhoun asked what improvements were proposed.

Mr. Merrick replied that one was in relation to assimilating the postage to the Federal coins; another, in relation to expresses; another, to the size of newspapers subject to one cent postage. He held up a newspaper about ten feet square, as a specimen of the abuse in relation to newspaper transmission. Another reform is to confine the franking privilege of members of Congress to their own letters, and to abolish the franking privilege of postmasters. There were some other improvements, such as suppressing private expresses. He remarked, in reference to the delay in bringing forward the bill, that it was in consequence of its position on the calendar. The bill had been reported some months back, but had not been reached on the calendar till now.

Mr. Buchanan assured the Senator that, if there was time to get through with the bill, he would be as willing as he (Mr. M.) was to go on with it, and ascertain what ought to be done to reform the abuses complained of. But he should also assure the Senate that, if this bill was now to be proceeded with, they might bid adieu to the unfinished business on the calendar for this session.

Each section of the bill would in itself take considerable time to discuss. It might be calculated that the reduction of postage proposed in the first section would be equal to 25 per cent. This reduction, it was expected, might increase the quantity of letters, though he doubted it. But, as the proposition was a direct reduction, which might seriously affect the revenue of the department, he thought there ought at least to be estimates which would enable Congress to consider the matter understandingly.

Then, as to the second section, he would venture to say that, if it was attempted to be carried out, there would be a nest of hornets raised about the ears of Congress, from which there would be no retreat. That section proposes to make such a change with regard to newspapers transmitted by mail, as will compel every editor in the Union to become a spy and informer against his own subscribers. It also requires him to furnish the post offices with his private register of subscription. Such rules in relation to newspaper editors never before were attempted to be enforced in any country in the world. There was not a newspaper editor or proprietor in the Union that would not take up arms against this section of the bill.

In order to test the sense of the Senate on the propriety of giving time to digest the important changes proposed, he would move to lay the bill on the table.

Mr. Merrick hoped the Senator would suspend his motion for a moment.

Mr. Buchanan assented.

Mr. Merrick then proceeded to explain the second section of the bill, with a view of showing that all it required of an editor of a paper was, to furnish a list of the persons to whom he was transmitting his papers through the mail. He conceived editors and proprietors of papers would be benefited themselves, as, in case of the death or removal of a subscriber, they would be saved the expense and trouble of forwarding papers for which they never would be paid.

Mr. Buchanan asked, did the Senator assume there could be any right imposed upon newspaper editors to hand into the post office such lists of their stockholders?

Mr. Merrick conceived that, if it was made the condition on which their papers were to be transmitted, they could not object.

[July 27.] Mr. Buchanan said he felt convinced, the other day, when the proposition to fix the rates of postage was under consideration, that a great diminution of revenue would be the effect of its passage. He expressed himself so, on the amendment as proposed and advocated by the chairman of the Committee on the Post Office and Post Roads. He then said that they ought not to pass any such bill, without an official and responsible report from the department as to what would be its effect on the revenues. It never would do to make the Post Office Department a charge upon the general treasury.

Mr. B. said the Postmaster General, in his communication, requests of you not to touch the matter at the present session; and states that he will, at the next session of Congress, furnish data to enable us to frame a bill understandingly. When there will be but two or three months or so to elapse before the meeting of the next Congress, ought we not to indulge that officer in his wishes? or will you go into it blindly, without knowing what will be the effect on the revenues of the department? He (Mr. B.) would not be governed by recommendations without estimates. If the section were stricken out, it would not delay action upon the object of it for more than three or four months. He would not move one inch on such a subject without full and proper estimates from the department. Therefore he would vote against the recommitment of the bill, and for the first section to be stricken out, to enable us to have the estimates from the department to govern us at the next session of Congress, when the object could be better accomplished of conforming the rates of postage to the Federal coin, which he was in favor of.

The question on recommitment was put, and decided in the negative—ayes 14, noes 20.

REMARKS, JULY 30, 1842,

ON THE DUTIES ON RAILROAD IRON.[1]

The next amendment was as follows: In the proviso extending the indulgence of existing laws to railroad companies for iron imported for railroads, instead of 1843, to insert 1845.

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 814.

Mr. Berrien explained the objects which the Finance Committee had in view in proposing this amendment.

He had heard, with pleasure, the general expression of a disposition to encourage domestic industry; but on that subject he had no sectional feelings. He would, however, say that, if anything required encouragement, it was the system of internal communication, in which the commerce of the whole Union had a deep interest.

The railroads in the Southern portion of the country were commenced on the pledge of laws that iron used in their construction was to be imported free of duty. He asked the Senate to sustain this pledge.

Mr. Buchanan said he had felt an irresistible repugnance to engage in the discussion of a bill which they must all be aware would end in nothing. He had omitted, for this reason, to say a word regarding the duty on hammered iron, although he could have shown conclusively that the duty of $17 a ton would not be equal to 30 per cent. But this did appear to him so remarkable an amendment, considering all that had taken place, that he could not omit saying a few words upon it. He would not say there had been a compromise between the Senator from Georgia and himself; yet it was as much like a compromise as anything that he had ever known, and one for which he (Mr. B.) had incurred considerable censure too. He undertook, it was true, to agree that the privilege of importing railroad iron duty free, should continue until the 4th of March, 1843; and he had assented to that, at a time when he knew there were extensive preparations being made in some of the districts of Pennsylvania for the manufacture of the article.

Now, what was proposed to be done? To extend that privilege for two years longer, and to permit iron thus imported to be laid down three years hereafter—thus annihilating all duty upon railroad iron for a period of five years. This was the proposed amendment. And he would ask (but he supposed he might ask in vain) if it were right, while all the operative classes were subjected to the payment of a duty, in some shape or other, that the railroad companies should alone be exempt. Why should they be privileged above all others? He had no feeling of hostility towards those companies—very far from it; but he would say that they ought at least to be placed upon the same footing as individuals. Exclusive privileges extended to them would be clearly in violation of common right.

What had the treasury already lost by that unfortunate act of Congress? It had lost, up to this time, according to documents now lying on your table, $4,800,000—equal to a premium of $500,000 a year granted out of the treasury to those railroad companies—an actual gratuity or donation. This he (Mr. B.) considered a great injustice to the public revenue, and he trusted the Senate would concur with him that they were not entitled to these privileges.

REMARKS, AUGUST 1, 1842,

ON THE TARIFF.[1]

A motion by Mr. Buchanan being before the Senate, to amend the tariff bill by striking out the 27th section (the land distribution section,)—

Mr. Buchanan said it was not his intention to discuss the general question either of the power or the policy of distributing the proceeds of the public lands among the several States. He should not now repeat the arguments which he had urged upon a former occasion, since the commencement of the present session, against this policy; but, waiving all discussion upon the general topic, he would proceed to state, as briefly as he could, the particular reasons, arising out of existing circumstances, which ought, in his opinion, to induce the Senate to adopt the proposed amendment.

The proviso to the 6th section of the act of September last, "to appropriate the proceeds of the sales of the public lands," had declared that the distribution of the land fund among the States should be suspended whenever duties exceeding 20 per cent. ad valorem should be imposed upon any foreign production imported into the United States. It was well known that, without this limitation to its own existence, the land bill could never have become a law. The 27th section of the present bill, which he proposed to strike out, repealed this limitation, and declared that, notwithstanding the bill raised the duties above 20 per cent., yet still the land fund should continue to be distributed. Whilst, with one hand, (said Mr. B.,) you propose to raise the duties above the prescribed limit, for the purpose of replenishing an exhausted treasury, you insist that, with the other, you shall

[1] Cong. Globe, 27 Cong. 2 Sess. XI., Appendix, 708–711.

be permitted to withdraw from it the money arising from the sales of the public lands, and give it away to the States. Shall this be done? That is the question.

But there is another question involved in the fate of this amendment, of a far higher and more important character. It is this: shall we suffer the treasury to continue in a state of insolvency;—shall we withhold from the domestic industry of the country that incidental protection which a revenue bill would afford, rather than even suspend, for the present, the distribution of this comparatively petty land fund? This question we are compelled to decide. If we *will* give this fund to the States, it must be at the expense of a disgraced and dishonored treasury, and of ruined manufactures. This is a fearful alternative; and I would appeal most solemnly to Senators to consider the consequences which must inevitably follow, in case my amendment should be rejected.

I understand that it has now been ascertained at the Treasury that the whole amount distributable from the land fund for the first half of the present year is but $380,000; of which the proportion of Pennsylvania would be only about $38,000. I ask again, shall we, for the sake of this comparatively miserable pittance to the States, permit the treasury to continue in a state of bankruptcy, and deprive all the domestic interests of the country of that protection which a reasonable tariff would afford? I put it in the alternative; because, if you will adhere to the land fund, you must lose the tariff.

Sir, said Mr. B., I am the last man in this country who would ever consent to legislate with a view to accommodate the individual wishes or private opinions of the President of the United States. I despise as much as any man in existence the miserable sycophant who would insinuate himself into the President's confidence, for the purpose of discovering his opinions on any pending subject of legislation, and then be guilty of the crime (for a crime I will call it) of attempting to influence the vote of any member of Congress, by repeating these opinions. But the case here is far different. We have the President's opinion in a solemn, responsible, official form; and it is now part of the history of the country. But one short month ago, he sent his message to the House of Representatives, vetoing what has been called "the little tariff bill." That message, bearing date the 29th of June, 1842, is now before me. I shall not trouble the Senate by reading any extracts from it, as we are all

perfectly familiar with its contents. We all know that the President "regards the suspension of the law for distributing the proceeds of the sales of the public lands as an indispensable condition" of any increase of the tariff above twenty per cent.; and he has declared the fact to be "undeniable that the distribution act could not have become a law without the guaranty in the proviso of the act itself." Every man who has read this message must be convinced that the President will not, cannot, under any circumstances, approve a bill which raises the duties upon imports above 20 per cent., and at the same time continues the distribution of the proceeds of the public lands. Unless, therefore, you adopt my amendment, all your labor in discussing and passing the present bill will be in vain.

The Chair here interrupted Mr. Buchanan, considering it out of order to allude, in debate, to what the opinions of the Executive were.

Mr. Buchanan said he was not very conversant with the rules and orders of the Senate; but he believed he had a right to allude to the principles laid down in the veto message on the little tariff bill, and to draw from them any fair inference he pleased. He had always considered the President's messages fair subjects of debate.

The Chair reiterated the opinion that it was out of order to refer to that message with a view of drawing any inference from it by which the Executive will was to be indicated, to influence the action of the Senate on the question pending.

Mr. Buchanan insisted on his right to refer to the message of the President in whatever manner he pleased, for the purpose of enforcing his views, when it was fairly relevant to the question under discussion, and appealed from the decision of the Chair.

The Chair appealed to the Senate for a decision on the subject, and read the authority from Jefferson's Manual, page 116, as follows:

> In 1783, December 17, it was declared a breach of fundamental privileges, &c., to report any opinion or pretended opinion of the King, on any bill or proceeding depending in either House of Parliament, with a view to influence the votes of the members.—2 Hats. 251, 6.

After some debate by Messrs. Walker, King, Graham, and Huntington, upon the point of order—

Mr. Buchanan said, although not very conversant with questions of order, yet he thought he knew what rules would be prescribed by a man of plain, practical common sense, who had

long been in the habit of attending to the proceedings of the Senate; and he had, therefore, been not a little astonished at the decision of the Chair. He was glad to find that the precedent which had been just cited by the Chair did not, in his opinion, apply to the present case. He would readily admit that the irresponsible private opinions of the Executive ought not to be adverted to in debate, for the purpose of influencing the votes of the members. This would be a palpable breach both of the rules of order and the laws of propriety. But was he to be told, in the Senate of the United States, that it was not competent for him to examine the late veto message, (which was a public, constitutional act of the highest solemnity,) and state that the President had in it declared that he never could, and never would, sanction any such bill as that now before you, unless it should be amended in the manner which he (Mr. B.) had proposed? and that it was, therefore, an idle waste of precious time to pass the bill, if you rejected the amendment? This inference was irresistible. After General Jackson had vetoed the bill to continue the charter of the Bank of the United States, upon such principles as manifested his abhorrence for that institution, and the utter impossibility that he should ever approve any bill to prolong its existence:—if another bill of a similar character had been brought before the Senate, would he (Mr. B.) not have been permitted to say, "it is in vain for you to spend your time upon such a bill, as it can never become a law?" He had said nearly all he had intended on this branch of the subject, before he was interrupted by the Chair; but as the President had decided that he (Mr. B.) had no right to advert to a public document for the purpose of drawing an inference from it, he had felt himself bound to appeal from his decision.

The President said that he considered it out of order to refer to the existing state of opinion of the Executive, with a view to influence the action of the Senate upon the pending question; though the Senator was at liberty to use the veto message in any other manner he pleased.

Mr. Buchanan said he had not the slightest idea of referring to the President's existing opinions; for he knew as little of them, except what he might infer from his public messages, as any man living. He would say, however, that if he (Mr. B.) had written such a document as the veto message but one short month ago, he could not imagine any event within the range of probability which would induce him even to think of retracting the solemn

and deliberate opinions which it contained. The President of the Senate had now permitted him to prove, from this message, what had been the opinions of the President of the United States one month ago, although he was prohibited from inferring what they were now. He would, therefore, withdraw the appeal, and proceed with the debate, leaving each Senator to infer for himself what must now be the opinion of the Executive from what it was known to have been at the date of the veto message.

Mr. B. resumed. I shall most certainly not refer to any private opinion of the Executive. I have no personal knowledge of his private opinions on this, or any other subject; and if I had, I would not be guilty of the indecorum of repeating them, or even alluding to them on this floor, for the purpose of influencing the action of the Senate. But, sir, when the President vetoes any bill, he is imperatively bound, by the mandate of the Constitution, to return it with his objections to the House in which it originated; and these objections must be entered at large upon the journal. The message then becomes a public document—a document of the highest and gravest authority; it becomes from that moment one of the archives of the country, and, as such, would be transmitted to future ages. The President returned the little tariff bill to the House of Representatives with his objections, on the 29th of June, 1842; and what did he declare in these objections? The Chair, under its decision, will surely permit me to state the purport of this message. The President there declares, in the most solemn and impressive terms, that he disapproved the bill, because it violated a principle which he had deliberately and conscientiously adopted for the guidance of his conduct in this particular; that notwithstanding it raised the duties above 20 per cent., it still continued the distribution of the proceeds of the public lands. This was the President's invincible objection to that bill; and such it stands recorded on the journals of the House. If, at the end of one little month, he should approve the present bill, (which, without my amendment, is liable to the very same objection, though in a much more aggravated form,) he would present such a spectacle of glaring inconsistency in the chief magistrate of a great nation, as has never been exhibited to the world. I shall keep myself within the rule, and allude only to the official document. This I am at liberty to do, because it is a portion of our past history. Such then were the solemn convictions of the President, avowed before the country in the month of June; what

they may now be in the month of August, I am not permitted to conjecture. *Then,* most certainly, he would have approved no bill to raise the duties above 20 per cent., which at the same time made a donation of the land fund to the States. What he may do *now,* I dare not infer, lest I might violate the rule. Senators could draw their own conclusions.

I shall take it for granted, however, and argue upon this assumption, that the refusal of the Senate to adopt my amendment must and will prove fatal to the bill. The correctness of this assumption no Senator will call into question. I ask Senators, then, to say whether they will abandon all the benefits of the present bill by their pertinacious adherence to its 27th section?

The treasury is now insolvent; and shall we doom it to remain insolvent—shall we suffer the national faith to be violated before the world, rather than pass a revenue bill which shall be silent on the subject of distribution? All that we ask is, that you shall postpone this vexed question for the present, and not suffer it to interfere with the legislation demanded by the highest and best interests of the country. Our present income is but little more than half our current expenditure: and, in addition to that, we are already indebted between twenty and thirty millions of dollars. We are now driving along the road to ruin at a rapid rate; and yet, as if we were impelled to it by an overruling destiny, we madly insist upon depriving our insolvent treasury of the proceeds of the public lands. I ask those Senators who are in favor of distribution to wait for better times. What would the world think of an individual who should conduct his private concerns in the manner in which we seem determined to act? Indebted twenty millions, with an annual income of little more than half his annual expenses, if such an individual should refuse to accept a revenue which would render him independent, unless he were permitted, at the same time, to give away from his creditors a small portion of his present scanty means, the world would consider him demented. Ought not, then, this great country, whose character is beyond all price—a country (the first since the creation of the world) which has ever paid to the last farthing a large national debt—to hold the preservation of national faith in far higher estimation than to forfeit it rather than withhold from the States the pitiful sum now derived from the public lands?

Again: permit me to say a few words on the subject of domestic manufactures. In raising revenue, I am most decid-

edly in favor of affording them such incidental protection as will enable those which are already established to maintain a fair competition with similar manufactures in Europe. Thus far I shall go, but no farther. Our domestic manufactures afford employment to a great number of individuals whose habits of life disqualify them for different pursuits, and who must severely suffer if these manufactures should be prostrated. No Senator would wish to witness such a catastrophe; much less could he desire to see the immense number of our meritorious and useful citizens now engaged in the mechanical arts deprived of employment, in consequence of the influx of foreign mechanical productions.

Besides, however impolitic it might be to create any new branch of manufactures in this country, by legislation, yet every one must perceive that the increased demand for foreign productions, which would be the inevitable consequence of the destruction of our own manufactures, must greatly enhance the price of such articles, and prove injurious to the consumer, as well as to the manufacturer.

Iron is the article of manufacture in which my own State is peculiarly interested. According to a highly respectable authority, the different manufactures of iron in Pennsylvania in 1839 amounted to upwards of twenty-one millions of dollars. This article is essential for national defence in time of war, and it is scarcely less necessary in time of peace. The first tariff law, therefore, which passed in 1816, immediately after the close of the late war with Great Britain, imposed a protective duty of $30 per ton upon British rolled bar iron—the article, above all others, the importation of which our manufacturers had most reason to dread. This act received the support of my friend from South Carolina, [Mr. Calhoun.] Under the tariff of 1824, the same rate of duty was continued. Under that of 1828, it was increased to $37 per ton, but was afterwards reduced, by the tariff of 1832, to the old standard of $30 per ton. This duty had never prohibited foreign importations. The importation of bar iron yielded a revenue to the treasury in 1839, of more than two millions of dollars; and it will continue to yield a large revenue under the duty of $27.50 proposed by the present bill.

The bar iron, both rolled and hammered, imported into the United States in 1839, amounted to 95,842 tons, of which 60,284 tons were of rolled and 35,558 tons were of hammered iron; whilst the domestic production of bar iron, including both rolled

and hammered, for the same year, according to the census, amounted to 201,561 tons. Thus, whilst Congress has afforded incidental protection to this manufacture, the importation of the foreign article has contributed a large revenue to the treasury for the support of the Government.

The duty heretofore existing on iron in pigs, which is the first stage of its manufacture, has gone far to exclude the foreign article. In the year 1839, there were but 12,500 tons imported; whilst, according to the census, there were in the same year 314,846 tons produced in the United States.

I am most anxious to be able to vote for the present bill. In a few particulars I consider it extravagant, and I think it requires some modifications. The present moment, as I have often said, is the most propitious I have ever witnessed for settling this vexed question upon a permanent and satisfactory basis, and in a manner calculated to produce the greatest good to the whole country. And upon such a great occasion, when hundreds of thousands of your laboring people depend for their livelihood upon these manufacturing establishments—when plenty and prosperity will result from the incidental protection which this bill will afford—ought Senators who profess to be devoted to domestic manufactures to hesitate for a moment as to their course? Ought they not cheerfully to abandon this miserable land fund, in order that they may procure all these blessings and advantages for the country?

But, sir, I shall vote to strike the 27th section from this bill, because, in my opinion, the permanent success of our domestic manufactures will be secured by retaining the land fund in the treasury. And why? Competition will finally produce its natural effect. The labor, the skill, and the enterprise of the people of this country will gradually, but surely, drive the rival foreign fabrics from our market. This effect has already been produced, to a great extent, in regard to pig iron, the coarser cottons, and other articles which I might enumerate. Give us a sound currency—without which it is impossible that manufacturing establishments can permanently flourish—and let the American manufacturer be brought into fair competition with the foreigner; and, my life upon it, sooner or later he will prove successful. And what then? The time will then have arrived—and I now undertake to predict that it is not very far distant—when you will not be able to raise from imports a sufficient revenue to sustain the Government. Your imports will then be

chiefly confined to such articles as you shall not produce yourselves, and these will not furnish a sufficient source of revenue. Under such circumstances, let the treasury be deprived of the land fund, and what will be the condition of the domestic manufacturer? The contest will then be between protection and direct taxation. If this conflict should ever exist, it is easy to foresee the result. The hour will then have arrived when the manufactures of the country must be prostrated; because I undertake to say, with great confidence, that the idea of direct taxation, however beautiful it may appear to some in the abstract, will never be realized in practice, for the purpose of defraying the ordinary expenses of the Government. It will only be in time of war, or of extreme danger, when the safety of the Republic is threatened that we shall resort to direct taxation. The people of this country will never submit to an inquisition into their private and domestic concerns, in order that taxes may be assessed to support this Government in a time of profound peace—they will never submit to the visits of the tax-gatherer and the exciseman, for the purpose of collecting such taxes. The idea of direct taxation by the Federal Government, in a time of profound peace, is a mere abstraction. This source of revenue must be left to the States, deprived as they are, by the Constitution of the United States of the power of resorting to duties on imports. To shield domestic manufactures from this imminent danger, it is necessary to retain the land fund in the treasury of the United States. Manufactures may then flourish without incurring the danger of having their protection withdrawn, in order that the revenue required to support the Government may be raised by duties on imports.

The time, I know, has been when the manufacturers desired the distribution of the proceeds of the public lands among the States, for the express purpose of compelling the Government to raise more revenue, in order that there might be more protection. That desire may still exist with many, for aught I know; but the period must soon pass away when such a desire will be general. A new era is approaching when the question will be—how shall we save the incidental protection extended to domestic manufactures, without resorting to direct taxation? Preserve the land fund, and no such question will ever arise. This fund, purchased by the bravery and blood of our forefathers, will render us prosperous in peace, and secure in war. Under all circumstances, in our greatest emergency, a pledge of it will

enable us, at any moment, to borrow $50,000,000 for the defence of the country. Why, then, should those who claim to be the exclusive friends of domestic manufactures cling with the grasp of death to this distribution policy?

There is another point of view in which I desire to present the subject, and then I shall close my remarks. We have been informed by the chairman of the Committee on Finance [Mr. Evans] that the bill proposes to raise between twenty-six and twenty-seven millions annually: between twenty-two and twenty-three of which are believed to be necessary for the current expenses of the Government, and the remainder is to be applied to the extinguishment of the existing national debt. Now, sir, although I believe the expenditures of the present Administration to have been extravagant, yet I fully concur in the policy of the resolution which has been unanimously adopted by the Senate, during its present session—"that it is the duty of the General Government, for conducting its administration, to provide an adequate revenue within the year, to meet the current expenses of the year; and that any expedient, either by loan or by treasury notes, to supply, in time of peace, a deficiency of revenue, especially during successive years, is unwise, and must lead to pernicious consequences."

I admit, then, that we must pay our debt, and provide for the current expenses of the Government; and that the sum proposed to be raised by this bill is not more than sufficient for these purposes.

I trust that I have never attempted to play the demagogue on this floor; and, if I know myself, I shall never make any such attempt. Neither shall I ever be diverted, by the fear of such an imputation, from doing my duty to the people of the country. I say, then, boldly, if you will consent to retain the land fund, you may take off the tax which this bill imposes upon tea and coffee; whereas, if you will give away this fund to the States, the tax upon tea and coffee is necessary to raise the sum which you require. Retain the fund, and you may relieve the people from this tax; give it away, and the tax is inevitable. You must choose the one or the other of these alternatives.

During the extra session, I procured a statement from the Treasury Department of the amount and value of the tea and coffee imported into the United States from 1831 until 1840, both inclusive. From this it appears that the value of these articles consumed in the United States during the year 1839

amounted to $10,788,509; and in 1840, to $11,675,369. The duty, at the rate of twenty per cent., proposed by this bill, would, therefore, have amounted, in the year 1840, to the sum of $2,335,074. It is fair, then, to estimate that the tax upon tea and coffee will produce an annual revenue of two millions and a quarter. It is believed, by all those who best understand the subject, that, notwithstanding the small income derived from the public lands during the present year, it will mount up, the next year, to three millions of dollars. The reasons for this belief are conclusive; but I shall not stop here to present them. Now, sir, if you will withhold the land fund from the States, we can then relieve the people of the country from this tax of two millions and a quarter; and Senators by their vote must inevitably decide between the one alternative and the other. Strike out the 27th section of this bill, and I shall instantly move to make tea and coffee free articles, as they have been heretofore.

Let us examine this question for a single moment. Though not an old man, I can remember the time when tea and coffee were considered articles of luxury, rather than necessity. But now their use has become universal. Every man, woman, and child uses them; the poorest man in the country uses as much as the richest—nay, perhaps more; because, being deprived of the expensive luxuries which the rich use as substitutes, he indulges more than they in the articles within his reach. There is no article, except bread, a tax upon which will operate so much like a poll-tax as a duty upon tea and coffee. The cottager in Indiana consumes as much coffee as John Jacob Astor, the richest capitalist in America; and consequently pays as much duty; and it is, therefore, I say, that this tax partakes more of the inequality and injustice of a poll-tax than any other. Let me not be misunderstood. I call this duty a tax, because we cannot produce tea or coffee in this country, or any article which the people will substitute for them. If we could, I admit that the effect would be, as in all other cases, eventually to reduce the price to the consumer. We cannot, therefore, by any incidental protection, make tea and coffee articles of home production. We have seen, then, in what manner this tax will operate. But what will be the effect of bestowing the land fund on the States? Will this money be equally distributed among all the people who have equally paid the tea and coffee tax? No, sir, no; it will go to the States in their sovereign capacity, to relieve the capitalist from that taxation upon the value of his property which may be

necessary to pay the debts and support the Government of the States. You thus take from the poor in taxes what you give away to the rich in bounties. To enable you to make this donation for the benefit of the property-holder, you levy a tax upon the man who lives by the sweat of his face. In regard to the article of sugar, the case is different. Although its use is equally extensive with that of tea and coffee, yet it is a domestic production of our own country, and its culture in Louisiana has greatly reduced the price to the consumer. It is, therefore, a fair subject for revenue and incidental protection. The interest of the sugar-planter in Louisiana is one which we are bound to cherish. It has the higher claims upon my regard, because it is an agricultural interest. If we should suffer sugar to enter our ports duty free, it would impoverish, and almost ruin, one of the sovereign States of this Union; and, in the end, would greatly enhance the price to the consumer. But no such reason exists for imposing duties on tea and coffee. The human imagination cannot conjure up any reason which is not in favor of relieving tea and coffee from taxation, unless it might be that the duty is absolutely necessary for the support of the Government, after all other resources have been exhausted; and yet we in effect propose to tax these articles, in order that we may give away the land fund to the States!

Under these circumstances, I appeal to gentlemen to relinquish their grasp on this fund, at least for the present. It may not be long before they can seize it again, without subjecting the people of the country to this odious tax upon tea and coffee. Let them now stay their hand, and wait for better times, when the country shall be relieved from its present embarrassed and impoverished condition.

In making these remarks, I have had no purpose to excite party feelings. There is no man in the country more anxious than myself for the passage of a revenue bill which shall relieve the treasury from its embarrassments, and, at the same time, afford sufficient incidental protection to our domestic productions. This, I repeat, is a most propitious moment for accomplishing both these objects; because you cannot raise the necessary revenue without affording the necessary protection. The one will be the inevitable result of the other. I therefore earnestly appeal to Senators not to blast the hopes of the country, but to surrender the land distribution clause of the present bill. This being done, let us then proceed to modify and amend the bill in

other particulars; and let it become a law with as little delay as possible. We have now been in session ever since the last of May, 1841, with but a brief interval of less than three months; and the patience of the country is exhausted. Let us redeem the time by doing our duty promptly, and not waste it in the vain labor of discussing and passing a bill which we know can never become a law. I sincerely hope that my Whig friends on this side of the House may be induced to pursue this course.

[Here Mr. Crittenden made some remarks in answer to Mr. Buchanan, to which the latter replied as follows:]

Mr. Buchanan congratulated himself that the Senator's remarks had afforded no provocation for one of those tilting contests in which they had so often engaged. His reply should, therefore, be of that sober and serious character most appropriate to the subject. He would not object to a tax upon tea and coffee, if this were necessary to the support of the Government and the preservation of the national faith. When, however, no such necessity existed, these were the last articles, among all our imports, on which a duty should be imposed. The Senator had said that, even if the land fund should be restored to the treasury, it would not be equal, by more than a million of dollars, to the revenue to be derived from tea and coffee, and that, therefore, a necessity would still exist for imposing a duty on these necessaries of life. Not so. He admitted that, during the present year, and ever since the Whig Administration had come into power, the proceeds of the sales of the public lands had fallen far below the estimated revenue to be derived from a tax on tea and coffee. And why? Need he explain the reason to the Senator? It was well known that, for some cause or other, which might be readily conjectured, the new public lands had not, during the past and present year, been brought into the market, as heretofore, at public sale. There were large numbers of persons in the West, and throughout the country, with the money in their pockets, eagerly waiting to buy these lands, whenever they should be brought into market. This fact was well known; and he would venture to predict, with great confidence, that the sales of the public lands during the coming year would amount to three millions of dollars. Indeed, this seemed by general consent to be the estimate of all. Thus, the two and a quarter millions, the revenue to be derived from the tax on tea and coffee, would be exceeded by the revenue from the land fund. He had

no doubt, then, but that if this fund were retained in the treasury, they might safely place tea and coffee on the list of free articles.

The Senator thought that he (Mr. B.) had been mistaken in supposing that the cottager of Indiana or Pennsylvania consumed as much tea and coffee as John Jacob Astor. But it was clear that the rich had not the physical capacity of consuming more of these articles than the poor man; and they were now so cheap, in consequence of their importation duty free, that they were within the reach of all. He desired that they might remain so.

The Senator had asked whether the poor man would not consent to surrender one cup out of five of his tea and coffee, if the necessities of the country required the sacrifice. Most certainly he would, if the public interest or honor demanded it. But the question was, whether he would be willing to sacrifice his fifth cup for the purpose of enabling Congress to give away the land fund to the States, in order to relieve their citizens from taxes on property. To state the question was to answer the argument.

For his own part, he cared but little, comparatively, for the men; but it would be an exceedingly hard case to deprive the ladies—and especially the old ladies, who sipped their tea with so much zest—of this additional cup. He trusted the Senator would not require them to make this sacrifice.

Mr. Crittenden. Let the men give up their share. Let the old bachelors have none.

Mr. Buchanan, though he protested against being considered an *old bachelor,* yet he would willingly abandon his share to the ladies.

But why, said the Senator, should we not sacrifice the fifth cup, in order to obtain the great inheritance of the public domain for the States? True, this was a great, a magnificent inheritance; and though the Senator was anxious to give it away, he could not be more sincere in his conviction that this was wise policy, than he (Mr. B.) was that it would prove dangerous and destructive. Without the lands, what would be our condition in the event of a war with Great Britain, or any other great naval power? Much of our commerce would be driven from the ocean, and our revenue from duties would, consequently, cease. In such a moment of danger, where would be our resort? Could we then expect much aid from the States, whose citizens were

already taxed as much, almost, as they could bear? Whilst this land fund was preserved by the General Government, he repeated, we could, at any time, raise fifty millions of dollars on the faith of its pledge. In the hour of danger, when duties could not be collected, the public domain would be a sure resource for the relief and defence of the country. He believed it ought never to be surrendered. He knew it had been said that the distribution law would cease to operate, by its own terms, in time of war. But it would revive again on the conclusion of peace; and, therefore, you could never pledge the fund for the payment of a debt contracted either to prepare for war or to conduct it to a successful issue. All that you could obtain would be only the receipts from land sales during the actual continuance of the war.

But the Senator had asked why we did not take our own advice, and surrender our opposition to the distribution clause, in order that we might obtain the benefits of the bill? Was it necessary that he should answer this question? Could the Senator ask him to drink a cup with poison in it, because the remainder of its contents was a healthful beverage? Why not separate the two measures? Why did the Senator insist upon presenting both at the same time, and in connexion with each other? Why not yield to us the privilege of voting on each question separately, when he knows it is impossible for us to vote for both together. How could he ask Democratic Senators to vote for an entire law, part of which they almost all believed to be unconstitutional? He, (Mr. B.,) for his own part, had declared, more than once, his belief that the abstract power to distribute the public lands existed in the Constitution; but he felt almost as hostile to the measure as if he believed it to be palpably unconstitutional.

He would ask the Senator one question. Suppose two great goods were presented before him—the one of which he already possessed, and the other, and, beyond all comparison, the greater, might be attained by the temporary sacrifice of the lesser; what would be the part of wisdom under such circumstances? Now, sir, admitting the land distribution to be a good, no one would pretend to deny but that a wise tariff, which would supply the exhausted treasury, and infuse new life and vigor into every branch of domestic industry, would be an immeasurably greater good. The true rule of wisdom, then, was to take the tariff at the present moment, and trust to the future for the distribution of the land fund.

But there was one remark of the Senator with which he had been much pleased, and which induced him to hope that, whatever might be the fate of the present bill, we should have a proper revenue law before the close of the session. The Senator said he would not yield his position now—no, *not now*. From this he inferred that, although the Senator might not at present surrender the distribution policy, yet he would yield it on the next trial. He believed the Senator would ultimately make any sacrifice of private opinion, not inconsistent with personal honor, which might be necessary for the purpose of serving his country. He had certainly left himself sufficient latitude, by his declarations, to pursue this course; and he (Mr. B.) did not doubt but that, when he should find his favorite object to be unattainable, he would sacrifice it—at least, for the present—rather than witness the bankruptcy of the public treasury, and the ruin of our domestic manufactures.

REMARKS, AUGUST 8, 1842,

ON NAVAL SCHOOLS.[1]

The Senate bill providing for the establishment of schools of instruction in the naval service of the United States, was taken up, as in committee of the whole, and read.

Mr. Buchanan remarked that he should not have said a word upon this bill but for the fact that the yeas and nays had been called. Inasmuch, however, as he had determined to vote against it, and did not wish to be considered hostile to the navy, or to education, he would say a few words in explanation of his vote. He thought that we were a nation of magnificent ideas; but, unfortunately, we had not the money to carry them out. This bill contained about as splendid a scheme as was ever before Congress. If it was confined to the establishment of one school only, he would not oppose it. But what did it propose? To transfer five of our fortifications from the superintendence of the War Department to that of the Navy Department, which hereafter was to have exclusive control over them. Thus five of our military fortifications, erected at great expense for the protection of our people, were to be put in the possession of the Navy Department. And why? Five schools were to be estab-

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 859-860.

lished: to teach whom? At present there were 490 midshipmen, each of whom was required to serve three years on ship before he could be examined. Therefore, the number who could be in these schools at once amounted to 108. At this time of the day, when we were reducing all our expenditures, and it had been determined that no more midshipmen should be appointed, he could not vote for such a measure as this.

But it had been said that this measure would cost but little. [Mr. Archer. I said it would be a saving.] Yes, that it would save money to the Government. This was the way in which all these schemes were insinuated into favor. Let us see what it will cost. The Secretary of the Navy is to have an appropriation of $2,000, to fit out the five fortifications for the purposes of naval schools. Now, does any one suppose that $400 each would be sufficient to place these fortifications in a proper condition for schools? Four hundred dollars to convert into schools fortifications erected at the expense of millions!

But the Secretary is also authorized to appoint as many teachers of foreign languages as he may think fit, at $800 per annum, and two rations per day. How many officers are you creating by this authority? You know not. There is no limit put upon the Secretary. His power is unlimited, and the language is general. Again: $1,000 is to be appropriated to the purchase of a model steam-engine for each of the five schools. Here is $5,000 for the use of model engines—to teach what? To teach the boys, who should know their use and application. To be used where? At the fortifications, instead of on the ships where they are applied, and their power brought into play. In addition to these items, the bill proposes to appropriate $5,000 for the purchase of necessary furniture and for contingent expenses.

He admitted that the navy had covered itself with glory, and that its officers were intelligent men. He was willing to give them proper instruction; and had the Secretary proposed to establish one instead of five schools, he would not have determined to vote against the bill. At present, however, when Congress was reducing all the expenses of the Government, and when the midshipmen would be reduced, he could not consent to any such proposition as the one before the Senate. This scheme was but the foundation for a larger establishment. West Point Academy was started upon a much less appropriation.

Get these fortifications into the power of the Secretary of the Navy, and, ere long, there will be a magnificent establishment, and the Secretary soon will be clothed with the power to send whom he pleases to these schools, to be educated by the Government.

The Senator from Ohio [Mr. Allen] had related an anecdote about his boy at West Point. He (Mr. B.) could also tell one of as fine a looking fellow as he ever saw, who came to his room a few days since, and made complaint that he had been turned away from West Point. The young man had passed his examination; but the surgeon pronounced him near-sighted. The young man declared that he could see as good as any one, and could at any time kill a squirrel on a tree at sixty yards. He (Mr. B.) sent him to the Representative of his district to act upon the case. This was not the first case of the kind which had occurred. He himself knew six or seven who had been turned away from West Point for defects in their constitution, who protested they had never been sick in their lives. [Laughter.]

He concluded by repeating his declaration that he could not vote for the bill in its present form.

REMARKS, AUGUST 11, 1842,

ON THE MARINE CORPS.[1]

On the question of ordering the bill to a third reading,

Mr. Buchanan called for the yeas and nays, which were ordered.

Mr. Conrad said that they had been occupied all the session on plans of retrenchment; but this was a proposition to increase, instead of to retrench, expenses. He was opposed to the bill. He believed that there was greater necessity for the retention in the service of the second regiment of dragoons, than for the augmentation of the marine corps.

Mr. Buchanan, after remarking on the efforts which had been making this session to economize the expenses of Government, said he considered this proposition to increase the marine corps by adding to it 500 men, 5 captains, and 16 lieutenants, and a host of non-commissioned officers, a most extraordinary

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 877.

one. The bill which had passed through yesterday, (when he was for a moment absent,) increasing the expenses of Government some seventy or eighty thousand dollars for the pay of the pursers, he did not believe there was the least necessity for; and it was equally extraordinary, considering the state of the treasury. If he had been present, he would have recorded his vote against it; and should now, so far as he had any influence, exercise it to arrest its passage in the other House. So far as respected the bill now before the Senate, he said he was opposed to it. He had opposed any increase of the marine corps in 1836, when the treasury was overflowing; and he was more opposed to it now, when they had to borrow money (and could not get enough by borrowing) to carry on the expenses of Government.

Mr. Archer made some remarks showing that the committee had not recommended one-half the increase which the department had recommended, and showed that there was an absolute necessity for.

Mr. Cuthbert made some remarks in favor of striking out the captains. He was in favor of giving the number of men absolutely necessary, but not an increase of captains.

Mr. Huntington made some remarks against an increase of the corps.

Mr. Choate proposed to the chairman [Mr. Archer] to consent to strike from the bill the captains, as suggested by the Senator from Georgia, [Mr. Cuthbert,] who, he believed, was a friend to the navy.

Messrs. Calhoun and King expressed a willingness to vote for the increase of the corps so far as the addition of the men went, as it was held by the department that they were absolutely indispensable to the service; but they could not sanction an increase of officers. They believed that there were sufficient officers to command the corps, even if 500 men were added to it. They suggested to the chairman of the Naval Committee the propriety of striking from the bill all the officers.

Mr. Archer consented, and, by unanimous consent, the bill was so amended as to omit any increase of commissioned officers.

Mr. Buchanan then withdrew the call for the yeas and nays, as the most exceptionable part of the bill had been stricken out.

The bill was then ordered to be engrossed for a third reading.

REMARKS, AUGUST 13, 1842,

ON PENSIONS.[1]

The bill for the extension of the provisions of the pension laws was taken up as in committee of the whole, and read as follows:

A Bill to amend the acts of July, eighteen hundred and thirty-six, and eighteen hundred and thirty-eight, allowing pensions to certain widows.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the marriage of the widow, after the death of her husband, for whose services she claims a pension under the act of the seventh of July, eighteen hundred and thirty-eight, shall be no bar to the claim of such widow to the benefit of that act, she being a widow at the time she makes application for a pension.

Sec. 2. *And be it further enacted,* That the widows of such officers and soldiers as have died since the passage of the acts of the fourth of July, eighteen hundred and thirty-six, and of the seventh of July, eighteen hundred and thirty eight, and the widows of such as shall hereafter die, shall be entitled to pensions under those acts, respectively; they being otherwise entitled thereto, and widows at the time application for a pension is made.

A discussion was had on the provisions of this bill. Mr. Bates explained and defended it; and Messrs. Phelps and Graham took exception to the second section particularly, which, they believed, would greatly extend the present pension system.

Messrs. Wright and Calhoun opposed the bill generally, arguing that it would extend the pension system beyond anything yet known; that it went farther even than the Government was willing to go when the other pension bills passed, and when the treasury was overflowing with money; that it would cause to be placed on the pension roll all widows of revolutionary soldiers, without regard to the time of marriage, or to the fact of second marriage; and entitled such as had received five years' pension under the law of 1838 to pensions commencing from the period fixed in that act, regardless of the amount which they had already received; that it would take an immense amount of money out of the public treasury, which the condition of the fiscal affairs of the Government would not justify. They maintained that it was time to put a stop to the pension system, rather than to extend it.

Mr. Phelps moved to amend the second section, by adding the following, so as to prevent the reception of double pensions in any case, viz.:

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[1] Cong. Globe, 27 Cong. 2 Sess. XI. 885–886.

Provided, That any amount of pension which may have been allowed to the husband for any period subsequent to the 4th of March, 1836, shall be deducted from the pension allowed hereby.

Mr. Bates contended that the second section would not have the effect to allow a double pension.

Messrs. Wright and Phelps maintained that it would have that effect.

The question was then taken on the proviso, and it was agreed to.

Mr. Graham moved to strike out the second section, as amended; and

Mr. Wright demanded the yeas and nays, which were ordered.

After a few further remarks by Messrs. Wright and Calhoun, against the bill—

Mr. Buchanan said it would not be denied but that he carried out, in practice, his principles of retrenchment and reform as uniformly as any other member of the Senate. He had always been disposed, notwithstanding, to make an exception in favor of the widows of revolutionary officers and soldiers. He wished the Senate distinctly to understand that this bill did not propose to extend the benefits of the act of July, 1838, to those widows who had already received pensions for five years, under its provisions. The Committee on Pensions had reported against any such extension, and we were compelled to submit. For his own part, whatever might have been said originally against the propriety of that law, upon the ground that these widows were not married till after the close of the revolutionary war, he would now cheerfully vote to extend its provisions. The objects of your bounty were older and more helpless now, than they had been when you first granted it, and, after having enjoyed it for five years, would now feel the want of it more sensibly than if they never had enjoyed it at all. But that was, at present, out of the question.

What, then, were the provisions of the present bill? It had been decided at the department that a widow in all other respects entitled to the benefits of the act of 1838 should be deprived of her pension, if she had married again after the death of the revolutionary officer or soldier to whom she was previously married. The question then was, whether, by any just construction of this act, a second marriage ought to have deprived her of its benefits? The late Senator from Vermont, [Mr. Prentiss,]—

who was now adorning a judicial station, and would adorn any public station in which he might be placed—had made a long and able report, contesting the construction of the department; and had proved conclusively that he was right, and they were wrong. The Senate had already adopted the principles of this report in two special cases; and had decided that, under such circumstances, a second marriage ought not to deprive the widow of her pension. The first section of this bill merely made this construction applicable to all cases under similar circumstances.

What was its second section? The act of the 4th of July, 1836, gave pensions for life to such widows of revolutionary officer and soldiers as were their wives during the revolutionary war. It was deemed just by Congress to grant such pensions to those who had remained at home, taking care of the family and providing for its subsistence whilst their husbands were in actual service defending the country. In their sphere, they had suffered as many privations and hardships as their husbands. Whatever might be said in regard to the widows pensioned under the act of 1838, the pensions to these truly revolutionary widows had met the entire approbation of the country. He presumed no Senator could possibly feel any hostility to these pensions. But, under the construction (and he believed the correct construction) of the act of July, 1836, if the revolutionary officer or soldier had been fortunate enough to survive the date of its passage, and had lived till after the 4th of July in that year, his widow was deprived of her pension. Was there any good reason for this distinction? A lady who had lived with her husband from the year 1783 until his death, if he died before the 4th of July, 1836, was entitled to a pension; but if he died after that day, she was excluded. This distinction was founded neither in justice nor reason. The second section of the bill abolished it, and gave to the revolutionary widow the same pension—no matter whether her husband had survived the 4th of July, 1836, or not. It was objected that this extension would be a serious burden to the treasury. But was this possible? Such widows must have been married during the revolutionary war. Take the year 1783 as the latest period when they could have been married; and, supposing them to have been then twenty-one years of age, the youngest of them must now have attained the age of eighty. There could now be but few survivors, and these were all tottering on the brink of the grave. The expenditure, then, could not be great to grant them the

same pensions as though their husbands had died before the 4th of July, 1836. But, even if this were not the case, the distinction was arbitrary, unjust, and cruel, and ought to be abolished. The second section of the present bill would accomplish this purpose. It would also accomplish another. It would bestow the benefits of the act of July, 1838, on those widows whose husbands had died after the date of its passage; in the same manner that they had already been bestowed on widows whose husbands had died before the passage of the act. The pensions under this act were but for five years. This distinction was clearly unjust, and could not be sustained. It was established not upon the justice of the case—not upon the merits and claims of the widow of the revolutionary officer or soldier—but upon the mere arbitrary fact of whether their husbands had died before or after a particular day. The second section of the bill would correct this absurdity.

He should vote for the passage of this bill with very great pleasure. Whilst he had sternly opposed the addition of ninety thousand dollars per annum to the pay of the pursers in the navy, and all unnecessary additions to the number of the officers of the marine corps, he could not find it in his heart to refuse this relief to these feeble relics of the revolutionary age, now on the brink of life, and most of them in indigent circumstances. He would smooth their path to the grave, by all the means within his power.

The question was then taken on striking out the second section, and resulted in the affirmative—yeas 22, nays 15.

SPEECH, AUGUST 19, 1842,

ON THE WEBSTER-ASHBURTON TREATY.[1]

In the secret session of the Senate, August 19, 1842, on the ratification of the treaty with Great Britain—

Mr. Buchanan rose and addressed the Senate as follows:

MR. PRESIDENT: It is now manifest that the treaty under discussion is destined to be ratified by a large majority of the Senate. The news of this ratification will spread joy and gladness throughout the land. It will be hailed by the country as

[1] Cong. Globe, 27 Cong. 3 Sess. XII., Appendix, 101–110.

the pledge of a lasting peace between two great nations; and those who were instrumental either in its negotiation or ratification will be esteemed public benefactors. Beyond all question, such will be the first impression upon the public mind. Amidst this general joy, it will be a subject of surprise and astonishment that some eight or ten Senators should have separated themselves from the mass, and voted against the ratification of this treaty. The first impulse of public feeling will be to condemn these Senators. Now, sir, as I shall be one of this small number, I rise to make my defence before the people of the country in advance, not doubting but that the justice, if not the generosity, of the Senate will remove the injunction of secrecy from our proceedings, and enable me to publish my remarks.

There is no Senator who has felt more anxious to vote in favor of this treaty than myself. I am conscious of all the happy effects upon the country which might result from unanimity in this body; and I may say, in all sincerity, that I have endeavored to agree with the majority. Nay, more—I was disposed to distrust my own judgment, believing that it might have been prejudiced by the zealous and persevering efforts which I had formerly made, both as chairman of the Committee on Foreign Relations and as a Senator on this floor, to sustain the rights of Maine against what I believed to be the unjust pretensions of the British Government. I have, therefore, earnestly endeavored to keep my mind open to conviction until the last moment; but, after all, I cannot vote for this treaty without feeling that I had violated my duty to the country, and without forfeiting my own self-respect. In the emphatic language of the Senator from Maine, [Mr. Williams,] I believe it to be a treaty unjust to Maine and dishonorable to the whole country; and thus believing, if it depended upon my vote, it should be rejected without regard to consequences. These I would leave to that superintending Providence which has ever been our shield in the day of danger. Even if war should be the result, (which I do not by any means anticipate,) I would rely with perfect confidence upon the courage, patriotism, and energy of my countrymen, for the defence of their rights.

When the mission of Lord Ashburton was first announced, I hailed it as the olive branch of peace and friendship, presented by England to this country. The auspices were all favorable. I believed then, and I believe still, that she was sincere. Her revenue was insufficient for her annual expenditures; she had

experienced reverses in the East, where she was waging two expensive, unjust, and bloody wars; a large portion of her own population was almost in a state of open rebellion; and she had signally failed in her darling policy of extorting from France a ratification of the quintuple treaty, which would have given her the right of searching all European vessels on the coast of Africa. Such was the condition of England when Lord Ashburton arrived in Washington, "*having been charged with full powers to negotiate and settle all matters in discussion between the two countries.*" When I make this declaration, I employ the very language used by Mr. Webster himself, in the very first sentence of his first diplomatic note, dated on the 17th June last. His Lordship's powers were not confined to the Northeastern boundary question, which is the only disputed question settled by the treaty; but they would have enabled him to terminate all the vexed and dangerous questions which still remain open to disturb the harmony and threaten the peace of the two nations.

Not only did a crisis then exist in the affairs of England eminently calculated to predispose her to a fair and amicable adjustment of all the disputed questions, but the British Government well knew that these questions were of such a distinct and varied character, that some one of them had strongly enlisted the feelings of each portion of our country, and, when combined, that they would unite the American people almost as one man in demanding justice. There was the Northeastern boundary question, which peculiarly interested the Eastern States, as did the Northwestern boundary the Western States, while the Creole question had deeply affected the sensibilities of the Southern and Southwestern portions of the Union. Redress for the Caroline outrage and an abandonment of the right of search were questions of national honor, in which every man with an American heart, throughout the broad extent of our country, felt the deepest interest. The varied wrongs of England had united us together in an adamantine chain, no link of which ought ever to have been broken until these wrongs had all been redressed. I believe in my soul that the propitious moment had arrived for settling all these questions upon just and honorable principles. Feeling this to be the case, I declared, on the floor of the Senate, at the period of Lord Ashburton's arrival, that our motto ought to be—*All or none*. This I did, because I felt that all could be adjusted. I believe still that all might have been adjusted; although I knew it would be the policy of the British

Government to obtain a cession of that portion of Maine necessary to consolidate her power in North America, and leave the other questions—particularly that of the Creole—for "a more convenient season." This Creole question, from peculiar causes which I need not explain, was the weakest, except in point of justice, of all the questions in dispute; whilst the prejudices of the British people were most strongly enlisted against its fair and honorable adjustment. Lord Ashburton has succeeded in obtaining all that his Government most desired, and in postponing for future negotiation all which was most desirable for the American people. Until within the last few weeks, we had every reason to believe that all matters in dispute would be adjusted by the treaty. I appeal to Senators whether they have not heard, over and over again, throughout the negotiation, that the only obstacle in the way of settling all our difficulties was the obstinate adherence of the Maine commissioners to the line of the treaty of 1783. I often made inquiries concerning the Creole question, believing that its adjustment would be the most difficult; and was as often informed that there would be no difficulty in providing for the future, although Lord Ashburton might not be able to grant indemnity for the past. I believed that all things were in successful progress; and never have I been more astonished and disappointed than when I first learned that the Maine question alone had been settled by the treaty, and that all the rest of the disputed questions had merely been made the subjects of a diplomatic correspondence.

Had all the questions been adjusted between the two countries, a career of happiness and prosperity would have been opened to both, on which the imagination of the philanthropist might love to dwell. Time might have soothed, or even obliterated, the memory of the successive wrongs and insults which we have suffered from England since she first acknowledged our independence; and we might have forgotten those unfriendly feelings towards her which, unquestionably, now pervade the great body of the American people. Senators on this floor may speak of the two nations as the mother and the daughter, and may please their fancy by such epithets of mutual endearment; but, in the opinion of a large majority of our countrymen, England has ever acted as a harsh and severe stepmother towards this country. I had fondly hoped that this unnatural relationship would end with the termination of Lord Ashburton's mission;

and, had all the questions been settled, I was prepared to yield much for the sake of such a happy consummation.

I shall now proceed to discuss each of the subjects separately, involved in the correspondence and the treaty. And, first, I shall refer to the question of impressment. The two last letters of the series relate to this subject. On the 8th of August, (the day before the termination of the special mission,) Mr. Webster addressed a letter to Lord Ashburton, which presents a clear and striking view of the arguments which have been heretofore urged against the impressment of American seamen; and suggests to the British Government the propriety of renouncing the practice hereafter. His Lordship replied to this letter on the next day. (the 9th of August,) and, with this letter, his mission terminated.

This letter of Lord Ashburton is a fair specimen of his whole correspondence. It shows his Lordship to be a shrewd, sagacious, and practical man. The British Government could not have made a more fortunate selection of a minister. Whilst all his letters abound in general, and, I have no doubt, sincere professions of anxiety to establish perpetual friendship between the two countries, he never yields any of the pretensions of the British Government. He praises much the superior ability of the American negotiator; and (to use a cant phrase, common at the bar whilst I was a member of the profession) is content that Mr. Webster shall have the argument, provided he himself gets the land. He never commits himself, or his Government, on any particular point; and yet there breathes throughout his whole language such a spirit of conciliation that, until you examine it particularly, you incline to the belief that he is disposed to grant all you desire.

In this letter, I ask, does he abandon the odious claim of the British Government to impress seamen on board of American vessels? Does he yield to the unanswerable arguments presented by Mr. Webster? No, sir; no. On this subject, he is not merely non-committal. He comes up to the very point which has always been at issue between the two countries;—asserts the principle of the perpetual allegiance of all British-born subjects in the strongest terms; and justifies the practice of impressment in cases of necessity. Nay, more: he informs Mr. Webster that we ourselves would resort to the same practice, if our geographical position did not render it unnecessary. Let me quote a few sentences of his own language, to establish my position.

> The principle is (says his Lordship) that all subjects of the Crown are, in case of necessity, bound to serve their country; and the seafaring man is naturally taken for the naval service. This is not, as is sometimes supposed, any arbitrary principle of monarchical government, but one founded on the natural duty of every man to defend the life of his country; and all the analogy of your laws would lead to the conclusion that the same principle would hold good in the United States, if their geographical position did not make its application unnecessary.

It is true that he concludes with the expression of a vague hope that some satisfactory arrangement may yet be made upon the subject—meaning nothing, and amounting to nothing.

I confess, sir, I did not anticipate that the subject of impressment would form any part of the negotiations between Mr. Webster and Lord Ashburton. This question ought never to have found a place in the correspondence, unless, from the preliminary conferences, it had been ascertained that England was prepared to renounce the practice forever. Its introduction has afforded Lord Ashburton the opportunity of insisting upon a claim to which we can never practically submit, without being disgraced and degraded among the nations of the earth. We declared war against Great Britain thirty years ago, to protect American seamen from impressment; and she, and all the world, ought to know that we shall declare war again should the practice ever be resumed. If the stars and the stripes which float over an American vessel upon the ocean cannot protect all those who sail beneath them from impressment, no matter to what land they may owe their birth, then we are no longer an independent nation. Whenever any British officer shall dare to violate the flag of our country on the ocean, and shall seize and carry away any seaman from the deck of an American vessel, no matter what may be the pretence, (unless instant reparation should be made by his Government for the outrage,) our only alternative will then be war or national dishonor. We are deeply, solemnly pledged, before the world, to avenge such a wrong without a moment's unnecessary delay. Such an act would, in effect, be a declaration of war against us; and Great Britain knows it well. She claims the right of impressment, as a belligerent right only, and when she shall go to war with France, or any other nation, she will then count the cost to herself which may result from this practice. She may refrain, from the conviction that it would convert us, from being a neutral, into her most deadly enemy. No, sir; no. This is not a question for holiday negotiation, but for war, inevitable war, should the occasion ever unfortunately

arise. But Great Britain will have a care how she provokes such a conflict, in violation of every principle of national law, although she may refuse formally to renounce the practice. War must be the necessary result of impressment, or our national character must become a subject of scorn and contempt for all mankind.

I proceed next to the case of the Caroline. There was nothing easier in the world than to settle this question satisfactorily. The British Government had only to acknowledge that Captain Drew and his band of volunteer desperadoes were in the wrong when, under the auspices of Colonel McNab, they had invaded our territory, burnt the Caroline, and murdered an American citizen; and then do all they could to repair this wrong, by indemnifying the owner of the steamboat for his loss of property, and providing for the family of the murdered Durfee, if he have a family. To acknowledge the wrong, and repair the injury as far as he can, is the first dictate of every just and honorable man, at the moment he becomes convinced of his error. Such ought to be the conduct of every just and honorable nation. But has Great Britain pursued this course in the case of the Caroline? Has she either admitted the national wrong, or repaired it by making compensation to those who were its victims? Neither the one nor the other. We have been told, indeed, by the Senator from Virginia [Mr. Rives,] that this old and haughty nation, proud in arms, has submitted to ask our pardon for the outrage; and he considers this a great triumph. But is this the fact? Let the letter of Lord Ashburton to Mr. Webster, of the 28th July, be carefully examined by any Senator, and he must arrive at a directly opposite conclusion. I assert that this letter contains an able and elaborate justification of the attack on the Caroline, and a vindication of the British officers who planned and conducted it. How could it be otherwise? Has not Colonel McNab been knighted, and Captain Drew pensioned, for this gallant exploit against unarmed men, who vainly believed that the American flag upon American soil was a protection against British outrage? Have we not seen, within a few days, that a public dinner at which a noble Duke presided, has recently been given to Sir Allan McNab in London, where he received such honors as will encourage him again to violate our territory, whenever interest or feeling shall again prompt to a similar outrage? I ask the Senator from Virginia to point to any portion of the letter where the conduct of McNab and Drew has been condemned; nay, more, I ask him to point to any portion of the

letter where it has not been justified. It is very true that Lord Ashburton, whilst he earnestly maintains "that there were grounds of justification [for the Caroline outrage] as strong as were ever presented in such cases," declares "that no slight of the authority of the United States was ever intended;" and although this service was necessary, yet, as it involved a violation of our territory, he would deprecate its recurrence. In the very sentence to which the Senator from Virginia refers, in which his Lordship regrets "that some explanation and apology for this occurrence was not immediately made," he still continues to justify the capture and destruction of the Caroline on the plea of necessity. The whole substance of this letter may be summed up in a very few words, thus: Although the violation of your territory, and the destruction of the Caroline, were absolutely necessary and entirely justifiable, and as such have received the approbation of the British Government; yet I am extremely sorry that any such necessity existed, and hope it may not again occur. I also regret that such an explanation and apology for this occurrence as I have just made had not been tendered to your Government immediately after the event. A man runs me through the body with a sword, and afterwards explains and apologises to me, by assuring me that his act was both necessary and justifiable; but yet he is extremely sorry that any such necessity existed. This is Lord Ashburton's apology for the Caroline outrage. The President vainly indulged the hope, in his annual message at the commencement of the present session, "that the British Government would see the propriety of renouncing, as a rule of future action, the precedent which has been set in the affair at Schlosser." This was a vain hope. So far from renouncing the affair as a precedent, it has been justified and approved by that Government throughout. Let an insurrection again occur in Canada, and we shall reap the bitter fruits of this precedent. The military officers of the British Government will send expeditions across our frontier, which may plunder and murder our citizens, under pretence of defending their Canadian possessions against the attacks of the insurgents. This will be done, if for no other purpose but that of displaying their zeal and devotion to their sovereign, and thus purchasing the honors and rewards which have been so profusely bestowed upon the McNabs and the Drews who planned and conducted the Caroline expedition. A necessity to justify such attacks will always exist whenever they are deemed expedient; and if after four years' nego-

tiation, the British Government should express its sorrow—not for the outrage itself, but because a necessity existed for its perpetration—then we must be satisfied, if we should consider the Caroline precedent as binding hereafter.

After all that I have said, it would be vain to ask whether Lord Ashburton has granted indemnity to the owner of the Caroline, or provided for the family of the murdered Durfee. *It does not appear that Mr. Webster ever demanded any such indemnity,* or even alluded to the subject. He may possibly have adverted to it in his private conferences with Lord Ashburton; but if he did—my life upon it—the answer was, that the attack on the Caroline was justifiable, and therefore not a subject of indemnity. You have thus permitted this steamboat, owned by an American citizen, whilst under American colors, and moored in an American port, to be destroyed by the British authorities, without even asking them to indemnify the owner. Does not justice require that you should indemnify the citizen whom your own soil and your own flag could not protect, and for whom you asked no indemnity? I shall not at present attempt to answer this question. On the files of our executive documents, there is to be found a memorial from the citizens of Buffalo, presented in March, 1838, which places the claim of Mr. Wells, the American owner of the Caroline, in a very strong light; and as we have not even asked any satisfaction for him from the British Government, it will be a serious question whether we are not bound to indemnify him ourselves.

But Lord Ashburton, in this extraordinary letter, is not content with acting on the defensive. In the conclusion of it, he becomes the assailant. Referring to the case of McLeod, he complains that "individuals have been made personally liable for acts done under the avowed authority of their Government;" and he inquires whether the Government of the United States is now in a condition to surrender those engaged in such enterprises as that of the capture of the Caroline, without subjecting them to trial.

Mr. Webster replies to this letter on the 6th of August, and informs his Lordship that the President is satisfied, "and will make this subject, [the capture of the Caroline,] as a complaint of violation of territory, the topic of no further discussion between the two Governments." And thus ends the Caroline question.

But not so the McLeod question. Mr. Webster admits, as he had done in the beginning, that McLeod ought to have been surrendered, without trial on the demand of the British Govern-

ment. He graciously explains the reason why this could not be done, and casts the blame "upon a State court, and that not of the highest jurisdiction," which "was embarrassed, as it would appear, by technical difficulties." He says, however, that the Government of the United States holds itself not only fully disposed, but fully competent, to fulfil its acknowledged obligations to subjects of England who may hereafter engage in such enterprises; and informs his Lordship that the attention of Congress "has been called to the subject, to say what further provision ought to be made to expedite proceedings in such cases."

His Lordship must, indeed, have been difficult to please, if all these assurances were not satisfactory. In what, then, has the Caroline outrage resulted?—that outrage, so eloquently described by the Secretary himself, in his letter to Mr. Fox, as to make the blood tingle;—that outrage perpetrated on the Caroline *"in the darkness of the night, while moored to the shore, and while unarmed men were asleep on board, killing some and wounding others, and then drawing her into the current, above the cataract, setting her on fire, and, careless to know whether there might not be in her the innocent with the guilty, or the living with the dead, committing her to a fate which fills the imagination with horror."* We have settled this outrage upon our territory without any acknowledgment from the British Government that the act itself was wrong and unjustifiable, and without any indemnity to the injured individuals. Nay, more; Mr. Webster has yielded to Great Britain, while she still continued to justify the act and approve the conduct of the officers of the expedition, an assurance that we would surrender, without trial, all persons who may hereafter be engaged in similar enterprises. And, to cap the climax, the Senate have already passed what I solemnly believe to be an unconstitutional bill, which, if it should receive the sanction of the House, and be approved by the President, will deprive all State courts of jurisdiction over the foul murders which may be committed within their territory by lawless bands of desperate men sent over the lines from Canada by petty provincial officers, and will discharge the criminals from confinement in a summary manner, by a gross perversion of the writ of *habeas corpus*. Surely we have done everything we could to appease the British Government for the trial of McLeod before the courts of New York. I repeat that Lord Ashburton must be a most unreasonable man if he be not entirely satisfied with the settlement of the McLeod and Caroline questions.

I now come to the Creole question. And here we, who are opposed to the treaty, have been told that this is peculiarly a Southern question; and that, if the Senators from the South are satisfied with the manner in which it has been adjusted, we ought not to complain. Sir, this is not a mere Southern question, but it is a question which deeply affects the honor of the whole country. I might here repeat what I have said upon a former occasion—that all Christendom is leagued against the South upon this question of domestic slavery. They have no other allies to sustain their constitutional rights, except the Democracy of the North. I do not mean to insinuate that the Whig party of the North are generally abolitionists. Far from it. But this I will say: that Whig candidates most generally receive the support of the abolitionists, and, therefore, the Whigs, as a party, are careful not to give them offence. Far different is the conduct of the Democrats. In my own State, we inscribe upon our party banners hostility to abolition. It is there one of the cardinal principles of the Democratic party; and many a hard battle have we fought to sustain this principle. Whilst the Democrats of the North are opposed to slavery in the abstract, they are ever ready to maintain the constitutional rights of the South against the fierce and fanatical spirit of abolition. I, therefore, claim the right of discussing the Creole question. It was my anxious desire and confident hope that this question, at least, might have been settled by the treaty. I firmly believe that the propitious moment for adjusting it on honorable terms has passed away forever. The British Government might have consented to accept the bitter with the sweet, and to have done us justice on the Creole question, for the sake of obtaining that portion of Maine which they so ardently desired. But we have not improved the golden opportunity; and now what are we told? Why, that a great advance has been made towards the settlement of this question by the correspondence before us.

And what is a diplomatic note? What statesman ever dreamed of adjusting an important question, well calculated to impair the harmony and destroy the peace of two great nations, by a diplomatic note? A treaty is the only mode known to the law of nations by which such questions can be settled. Now, sir, if the letter of Lord Ashburton, of the 6th August, had even contained every stipulation which we could desire in regard to the Creole question, to what would it amount? It might possibly bind the honor of the present British cabinet; but after a change of

ministry, would it bind their successors? No man will pretend it. A new ministry would say to us, Why did you not secure your claimed rights by treaty? We are not bound by a mere diplomatic note, written by Lord Ashburton in behalf of a former ministry. And more especially are we not bound by it, when that minister himself, in the very first sentence of the note on which you rely, disclaims all authority from his Government to enter into any formal stipulation on the subject; and in a subsequent part of it, refers "to great principles too deeply rooted in the consciences and sympathies of the British people," which might cause a disavowal of any engagement into which he might enter for the purpose of settling this question.

But even if the engagement contained in this note of Lord Ashburton were solemnly inserted in the body of the treaty itself, it would be wholly ineffectual. It is contained in two sentences, which I shall read:

> In the mean time, (says his Lordship,) I can engage that instructions shall be given to the Government of her Majesty's colonies on the southern borders of the United States to execute their own laws with careful attention to the wish of their Government, and that there shall be no officious interference with American vessels driven by accident or by violence into those ports. The laws and duties of hospitality shall be executed, and those seem neither to require nor to justify any further inquisition into the state of persons or things on board of vessels so situated, than may be indispensable to enforce the observance of the municipal law of the colony, and the proper regulation of its harbors and waters.

Now, sir, when we consider the nature of our grievance, we shall perceive at once how wholly inadequate his Lordship's stipulation will be to afford a remedy. American citizens, in transporting their slaves by sea, from the Atlantic States to States on the Gulf of Mexico and on the Mississippi, must pass through the Bahama channel. If their vessels are driven into any British port along this channel, by storms, or are carried there in consequence of mutiny and murder, the slaves, who can escape to the shore by any means whatever, are instantly free. Such is the law of England, which will most probably never be changed. But whilst the slaves remain on board of an American vessel, they are, in the contemplation of the law of nations, on American soil. Now, if his Lordship had stipulated that the British authorities should prevent the slaves on board of vessels driven into port by storms, or carried there by mutiny, from making their escape to the shore, there would have been some efficiency in the engagement. This would have been a stipulation to do a positive

act, which would have retained and secured the slaves in the possession of their masters. But the engagements of Lord Ashburton are all merely negative. The British colonial governors are not themselves to be instrumental in releasing the slaves,—they shall not officially interfere with American vessels driven by accident and by violence into those ports,—they shall not make any further inquisition into the state of persons or things on board of vessels thus situated than may be necessary to enforce the municipal laws. All is negative, and is intended merely to prevent the British authorities themselves from becoming actors in violating our rights! The people of any of these colonies, without violating his Lordship's engagement, may interfere to produce the escape of the slaves from any such vessels. That they will hereafter act in this manner, there can be no doubt, judging from their past conduct.

In justice to Mr. Webster, I must say that he has placed this whole subject in a most clear, forcible, and striking light. He has proved conclusively that we ask no engagement from the British Government but what they are clearly bound to perform, under the law of nations, without any treaty stipulation whatever. What I complain of is, that while he always demonstrates his propositions, they never produce any practical effect for our advantage. Lord Ashburton does not attempt to answer his arguments, because they are unanswerable; and yet, in general terms, his Lordship declares that some of them have rather surprised and startled him, though he will not pretend to judge them. His object was to transfer the negotiation concerning the Creole to London; and in this he has succeeded. Our object ought to have been to settle the question in Washington, and to connect together, in the same treaty, the Creole question with the North-eastern boundary. I most sincerely hope that I may be mistaken, but I now believe none of us will ever live to see the day when the Creole question will be settled on terms honorable and satisfactory to this country.

One remark I feel impelled to make—and that is, that this Senate deserves to be famous not only for passing abstract resolutions, but for our willingness to surrender them whenever we are called upon to carry them into effect. We have unanimously resolved and re-resolved in favor of our title to the disputed territory; and we have pursued a similar course in relation to the principles involved in the Creole question. I hope that we shall hereafter desist from such vain and idle proceedings.

On the 15th of April, 1840, we resolved, by a unanimous vote, that our ships on the high seas, in time of peace, were, according to the law of nations, under the exclusive jurisdiction of our country; and further, that, when forced by stress of weather, or other unavoidable cause, into the ports of a friendly power, they, with their cargoes, "and persons on board, with their property, and all the rights belonging to their personal relations as established by the laws of the State to which they belong, would be placed under the protection which the laws of nations extend to the unfortunate under such circumstances." These propositions have been demonstrated by the Secretary of State. And yet, after our clear rights, under the law of nations, have been repeatedly outraged by the British authorities and people, all we have obtained for their security is a diplomatic note containing engagements which will have no practical effect whatever, and which may be recalled at pleasure by the British Government. So much for the case of the Creole.

I now approach the treaty itself, and shall first discuss the eighth article. It stipulates that each of the contracting parties shall maintain on the coast of Africa a naval force of not less than eighty guns, to enforce, separately, the laws of each country for the suppression of the slave-trade; "the said squadrons to be independent of each other, but the two Governments stipulating, nevertheless, to give such orders to their officers commanding their respective forces, as shall enable them to act most effectually in concert and co-operation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article; copies of all such orders to be communicated by each Government to the other, respectively."

Now, sir, the first remark in regard to this most important article, which must strike every mind, is, that it has become a part of the treaty, without any correspondence whatever between the two plenipotentiaries in relation to the subject. We are left entirely in the dark as to the motives which influenced the negotiators in forming this article, except from the obscure hints which may be collected from the President's message which accompanied the treaty. And here I would remark, that this correspondence throughout presents a singular spectacle, which, I trust, may never be exhibited again in any important negotiation with a foreign power. Everything had been previously arranged in verbal conferences, without any note or memorandum of what had transpired at them, before the date of the letters communi-

cated with the treaty; and these letters were evidently intended merely to present results in such a form as might best satisfy the people of both nations. The original pretensions on the one side or the other—the manner in which they were resisted—the means by which they were modified and received their present form—all, all are buried in oblivion, so far as this Government is concerned. The tracks of the negotiators were made upon the sand, and the returning tide has effaced them forever. Such is the case in relation to this Government; but not so, I shall venture to assert, in regard to England.

The first duty of every responsible minister engaged in the negotiation of an important treaty is, to communicate to his Government a faithful history in detail of all his official conferences. The British Government, beyond a doubt, have been accurately informed, from day to day, of the progress of this negotiation; and though the despatches of Lord Ashburton may not, for many years, see the light, yet they will be a great diplomatic curiosity whenever published. Instructed to settle all the questions in dispute between the two countries, the means will then appear by which he succeeded in baffling the American negotiator, and evading the settlement of any of these questions, except such as were for the advantage of his own country.

But, sir, I trust that no other American minister may ever follow the example of Mr. Webster in this particular. Such a mode of negotiation can only be tolerated between absolute sovereigns; but under a Government where every public agent is responsible to the people, either directly or indirectly, our most important affairs with foreign nations ought never to be concluded without a record of the conferences which led to the result. I myself negotiated an important treaty with Russia; and I felt it to be my imperative duty to write down, before I retired to rest, the substance of every conference with the Russian Minister for Foreign Affairs, and afterwards transmit it to my Government by the very first opportunity.

These observations, sir, will account for the remarkable fact that, although Lord Ashburton arrived in Washington and was presented to the President in the beginning of April, and his mission did not terminate until the 9th of August, yet the whole correspondence in relation to impressment, to the Caroline question, and to the Creole question, took place within the last week or ten days of its termination. All had been agreed upon beforehand in private conferences; and the correspondence was only making

up the record for public view. What Mr. Webster originally proposed, what he insisted upon, and what he retracted, can now only be known to himself and to the British Government.

But, in regard to this eighth article of the treaty, we have not even any formal record made up, nor any explanation whatever. There it stands in the treaty; but how or why it got there, we are left to conjecture. We bind ourselves to England that we shall maintain a naval force of eighty guns on the coast of Africa; whilst the condition of our treasury is so deplorable that we have been compelled to reduce our small army, and leave our fellow-citizens beyond the Mississippi exposed to the attacks of the numerous savage tribes transported to that region by our own policy. Did the British Government demand this sacrifice at our hands? Was it necessary to appease the wounded pride of England at the disappointment she experienced when France—our ancient and faithful ally—refused to ratify the quintuple treaty, and identified herself with us in resisting the right of visitation and search? All is obscurity—all is darkness. We do not know, and we never shall know, what passed between the negotiators on this subject in their private conferences. Under a Government where every public minister is responsible, we find a most important article inserted in a treaty, and know not even by whom it was proposed.

Now, sir, in common with all America, I abhor the slave-trade. Our duty both to God and man requires that we should prevent it from being conducted under the American flag. For this purpose, we ought to send a naval force to the coast of Africa, whenever this may become necessary for its suppression. This course we have always hitherto pursued. But why should we yield up the exercise of our own free will, at the dictation of England? Why should we bind ourselves in bonds to her that we shall do our duty? The Father of his Country, while he advised us to cultivate peace and friendship with all nations, at the same time warned us against entangling alliances with any. We have hitherto acted upon this wise and salutary maxim; and the present is the first entangling alliance we have ever contracted with any nation, since the date of his solemn warning. Hereafter, whether it be convenient or inconvenient to us—whether it be necessary or not—we have solemnly pledged ourselves to England that, at all times, and under all circumstances, during the period of five years, we shall keep eighty guns afloat on the coast of Africa; and she, of all others, is the nation which will exact a

strict performance of this pledge. There is no reciprocity, except in name, in this article of the treaty. The naval force of Great Britain is so large that, without any engagement whatever, she would keep a greater number than eighty guns on the African coast. In the face of all these objections, and in this moment of our depressed finances, we agree to expend $700,000 per annum, to enable England to present to Christendom this new trophy which she has won in the cause of universal emancipation. I take my estimate of the expense from the Senators from Missouri and New Hampshire, [Messrs. Benton and Woodbury,] who state that the cost of each gun at sea (including ship-building and all) amounts to $9,000.

But, sir, much as I dislike this article in the aspect in which it has already been presented, I dislike it still more when viewed in another light. To me, it appears, under all the circumstances, to be the price paid to the British Government for a relinquishment of its claim, during the continuance of the treaty, to the right of visiting and searching American vessels on the coast of Africa. On this subject we must grope our way in the dark—having no light to direct our steps but what appears on the face of the article itself, and the intimations contained in the President's message.

We have the declaration of the President, "that the treaty obligations subsisting between the two countries for the suppression of the African slave-trade, *and the complaints made to this Government within the last three or four years, (many of them but too well founded,) of the visitation, seizure, and detention of American vessels on that coast by British cruisers, could not but form a delicate and highly important part of the negotiations which have now been held.*" We thus learn, from the highest authority, that the right of visitation and search on the African coast did form a delicate and highly important part of the negotiations. This was all conducted in private conferences; as nothing on the subject appears in the correspondence. Mr. Webster must unquestionably have complained to Lord Ashburton of the outrages committed upon our flag by British cruisers; and his Lordship most probably replied that these were necessary to suppress the slave-trade in American vessels. How was the question to be compromised? By a stipulation, on the part of the United States, that they would keep a sufficient force on the coast of Africa to visit and search their own vessels, thus rendering unnecessary their visitation and search by British cruisers.

In this inference I am sustained by the language of the President. He says that "the examination or visitation of the merchant vessels of one nation by the cruisers of another, for any purpose, except those known or acknowledged by the law of nations, under whatever restraints or regulations it may take place, may lead to dangerous results. *It is far better, by other means, to supersede any supposed necessity, or any motive, for such examination or visit.* Interference with a merchant vessel by an armed cruiser is always a delicate proceeding, apt to touch the point of national honor, as well as to affect the interests of individuals. It has been thought, therefore, expedient, not only in accordance with the stipulations of the treaty of Ghent, *but, at the same time, as removing all pretext, on the part of others, for violating the immunities of the American flag upon the seas, as they exist and are defined by the law of nations, to enter into the articles now submitted to the Senate.*" These articles, then, were entered into for the purpose of removing all pretexts, on the part of the British Government, for examining and searching our vessels on the coast of Africa. These articles are the price which we have agreed to pay for the privilege of not being searched by British cruisers. But the eighth article of the treaty may be annulled, at the pleasure of either Government, at the end of five years; and if it should be, what will then be our condition? All the arrogant and unjust pretensions of the British Government to visit and examine American vessels will then revive; because the treaty contains no renunciation whatever of these pretensions. The parties will then be remitted to the condition in which they were placed before it was concluded. Nay, more: the claim of Great Britain will be strengthened by the fact that we have agreed to purchase a temporary exemption from its exercise, at the price of maintaining a squadron of eighty guns on the coast of Africa during a period of five years.

The President has referred to the stipulations contained in the treaty of Ghent as one reason for the adoption of this eighth article. The tenth article of that treaty declares as follows: "Whereas, the traffic in slaves is irreconcilable with the principles of humanity and justice, and whereas both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object."

The whole world knows how early, and with what persever-

ing energy, the United States have exerted themselves to suppress this odious trade. They were the first, a few years after the treaty of Ghent, to denounce it as piracy under their laws; and other nations have followed their example. They have faithfully complied with the treaty of Ghent, in using their best endeavors for the suppression of this trade. But will any person pretend that the tenth article of this treaty imposes any obligation upon them to make a new and distinct treaty, abridging their liberty of thinking and acting for themselves in accomplishing this desirable object, and compelling them to maintain a squadron on the coast of Africa, to act in concert with a British squadron, for this purpose? Surely Lord Ashburton never set up any such pretension. The tenth article of the treaty of Ghent is complete in itself, and contemplated no new stipulation between the two Governments.

Senators say that the two squadrons are to act independently of each other; and no danger now exists that American vessels will be visited and examined by British cruisers. I trust that the facts may justify their prediction. But the treaty itself provides that the two Governments shall "give such orders to the officers commanding their respective forces *as shall enable them most effectually to act in concert and co-operation.*" The British squadron on the coast of Africa will necessarily be larger than the American; and it will be commanded by an admiral, or other officer of high rank. Although no direct orders may be issued from the British commander to an American officer, yet, when the two squadrons are bound to co-operate with each other, influence will, probably, be substituted for command. The American squadron will thus, in effect, become a mere subsidiary force to that of England. Upon a review of all the considerations involved in this subject, I feel deeply solicitous that the pending motion should prevail, to strike this eighth article from the treaty. There is not the least danger but that it will be ratified by England without this article. The honor of the nation requires that we should make this amendment. After all that has passed, we should stand upon that sacred principle of the law of nations, that the American flag—waving at the mast-head of an American vessel, shall protect her from visitation and search by British cruisers. In what condition do we place France by yielding to the demands of England—that France whose people have been ever ready and ever willing to stand by us in the day and hour of danger? It is known to us all that England, by her persever-

ing solicitations, had obtained from the Governments of France, Russia, Prussia, and Austria, a treaty yielding the right of search on the coast of Africa; and she expected to extort this concession from us, through the moral influence of these nations. The treaty had not yet been ratified by France, when our minister at Paris interposed. His powerful protest against it aroused the French people to a sense of their danger. They took the alarm, and, like their fathers in the Revolution, they united with us in asserting the independence of their flag and our flag. Such a storm of indignation was thus raised, that the French Government withheld its ratification from the quintuple treaty. And yet, after all this, we have deserted our ancient ally—we have framed a treaty with the British Government, by which they not only do not renounce the right of search, but have obtained from us an implied acknowledgment of the existence of such a right, by our engagement, in consideration of the temporary suspension of its exercise, to maintain a squadron of eighty guns on the coast of Africa for five years, to act in concert and co-operation with the British squadron. Surely, surely, the Senate will not ratify this article of the treaty. Surely, surely, the Senate will not ratify the unjust claim of the British Government to be the supreme protector of the rights of humanity, either on the ocean or on the land.

I have now reached the Northeastern boundary question; and I have, on former occasions, written and spoken so much in support of our title to the disputed territory, that I shall trouble the Senate with but a few observations on this branch of the subject. I entirely concur in the opinion formerly expressed by Mr. Webster, that the claim of the British Government "does not amount to the dignity of a debatable question." The Senate unanimously adopted a resolution on the 4th of July, 1838, reported by myself, as chairman of the Committee on Foreign Relations, declaring "that after a careful examination and deliberate consideration of the whole controversy between the United States and Great Britain relative to the Northeastern boundary of the former, the Senate does not entertain a doubt of the entire practicability of running and marking that boundary in strict conformity with the stipulations of the definitive treaty of peace of seventeen hundred and eighty-three; and it entertains a perfect conviction of the justice and validity of the title of the United States to the full extent of all the territory in dispute between the two powers." The distinguished predecessor [Mr. Clay]

of the Senator from Kentucky, [Mr. Crittenden,] then a member of the Committee on Foreign Relations, cordially approved both of the report and of this resolution; and, upon his motion, the latter was considered and adopted on the anniversary of our independence. He said that there was a peculiar fitness in resolving to maintain the integrity and independence of the old thirteen United States on the anniversary of that memorable day on which our independence was declared. I can never, then, admit that our title to the disputed territory was even doubtful.

Dr. Franklin and the other American commissioners who negotiated the definitive treaty of peace, in 1783, were wise and sagacious men. They knew that, in every delineation of boundary, it was all-important clearly to fix the starting-point; and "that all future disputes might be prevented," to use the language of the treaty, the northwest angle of Nova Scotia was established as the place of beginning. At the date of the treaty, this was a well-known point, at the intersection of the western line of the province of Nova Scotia with the southern line of the province of Quebec; and although these two lines had never been actually run and marked upon the ground, yet their position was so clearly described by royal proclamations, by acts of Parliament, and by the commissions granted to the Governors of Nova Scotia and Quebec, that our commissioners deemed it impossible that any serious difficulty could arise in discovering this angle. Nothing more was necessary than to follow upon the ground the due-north line, plainly marked upon Mitchell's map, from the source of the St. Croix to the line of highlands dividing "those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean;" and at the intersection of these two lines, the northwest angle of Nova Scotia must be found, with mathematical precision.

All admit that Mitchell's map, published in 1755, was the map used by the commissioners in designating the boundaries of the United States. Until the year 1763, the northwest angle of Nova Scotia was the point where the line marked upon that map, as the dividing line between Nova Scotia and New England, struck the river St. Lawrence. In February, 1763, Great Britain acquired Canada from France by treaty. Under the King's proclamation of October, 1763, which created the province of Quebec, and afterwards, by act of Parliament, in 1774, this province was extended south of the St. Lawrence, "by a line from the bay of Chaleurs, along the highlands which divide the

rivers that empty themselves into the river St. Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut." The bay of Chaleurs on the north, in latitude between 48 and 49, and a point on the Connecticut, in latitude 45, were to be the two extremities; and the intermediate southern line of the province of Quebec was to pass between these two points, along the highlands which divide the rivers that empty themselves into the St. Lawrence, on the one side, from those falling into the sea, upon the other. The definitive treaty of peace adopts the language of the act of Parliament of 1774, and describes the northwest angle of Nova Scotia to be "that angle which is formed by a line drawn due north from the source of St. Croix river to the highlands" "which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean." Now, sir, let any Senator cast his eyes upon Mitchell's map, and follow the well-marked due-north line from the source of the St. Croix; and he will find that it crosses the river St. John very little north of the 47th degree of latitude, and does not arrive at the highlands from which rivers empty themselves into the St. Lawrence, until north of the 48th degree of latitude. And yet, in the face of all these official documents of the very highest authority, I was astonished to find that Lord Ashburton, in his letter to Mr. Webster of the 21st June last, declared "his settled conviction that it was the intention of the parties to the treaty of 1783, however imperfectly those intentions may have been executed, to leave to Great Britain, by their description of boundaries, the whole of the waters of the river St. John." In order to entertain this conviction, he must believe that the southern boundary of the province of Quebec, under the royal proclamation of 1763, and the act of Parliament of 1774, extended not merely to the dividing highlands whence streams flow into the St. Lawrence, but about a hundred miles south of these highlands, embracing a region of country watered by a large river, (the St. John,) and its numerous tributaries, which flow, not into the St. Lawrence, but into the sea. And Dr. Franklin and our other commissioners, with Mitchell's map before them, and the St. John with all its tributaries in full view, in the opinion of his Lordship, intended to bring the northwestern angle of Nova Scotia down to Mars Hill, one hundred miles south of those dividing highlands, from the opposite slopes of which rivers flow, on the one side into the St. Lawrence, and on the other into

the ocean. With this map before them, they were wholly ignorant of the language which they had employed when clearly and distinctly fixing the northwest angle of Nova Scotia in this dividing range of highlands, and intended to fix it in highlands one hundred miles south, which divide, not the sources of streams falling into the St. Lawrence and the Atlantic ocean, according to the description of the treaty, but the sources of streams falling into the St. John on the north and the Penobscot on the south.

In opposition to this treaty line, so clearly defined by Dr. Franklin, and to make Dr. Franklin contradict himself, the copy of an old French map by D'Anville has been produced, the original of which was recently found by Mr. Sparks in the office of Foreign Affairs at Paris, among 60,000 other maps. It is dated in 1746; and upon its face there is a line traced, in red ink, running along the highlands which divide the head waters of the Penobscot and Kennebec on the south from the tributaries of the St. John on the north. Much importance seems to have been attached to this map by the Secretary of State. It was communicated to the Committee on Foreign Relations in great confidence, and with an air of solemn mystery; and serious apprehensions were expressed lest Lord Ashburton might obtain information of the existence of so precious a document. The dreaded inference was, that this must be the very map which had been marked by Dr. Franklin for Count Vergennes, at his request, and that the red lines upon it were the boundary lines of the United States, according to the treaty, traced by the hand of its chief negotiator. In plain English, that, notwithstanding Dr. Franklin had signed the provisional treaty on the 30th day of November, 1782, defining the northeastern boundary of the United States to be a line drawn due north from the source of St. Croix river to the highlands, and thence along the highlands dividing the rivers which flow into the St. Lawrence from those which empty themselves into the Atlantic; yet that, only six short days thereafter, he had marked this very treaty line upon a map for Count Vergennes, as a line not running north at all from the source of the St. Croix, but running west, and not separating the head waters of the tributaries of the St. Lawrence from the rivers which fall into the Atlantic ocean, but dividing the tributaries of the St. John from the head waters of the Kennebec and Penobscot. To credit this, we must believe either that the Doctor had a very short memory, or that he did not understand the plainest provisions of the treaty to which he had just become

a party. Neither the one supposition nor the other can be tolerated for a moment. Those who attach such importance to this map surely could not have been aware of the fact that, previous to the year 1763, when Canada was ceded by France to England, all the French maps that were published had the dividing line between the possessions of France and England marked in this very manner. By this line France claimed against England prior to the year 1763; and it would have been "passing strange" if this old map of 1746—bearing date thirty-six years before the existence of our provisional treaty with England—should not have been thus marked. The wonder would have been to have found any map of that date in the French Foreign Office marked in any other manner.

The logic by which Dr. Franklin would be made to stultify himself is, that he certainly did mark some map for Count Vergennes with the lines of the provisional treaty, but what has become of this map no man living can tell. An old French map of 1746, however, has been found by Mr. Sparks, among sixty thousand other maps, marked as all French maps were, previous to 1763. Therefore, this must be the very map which Dr. Franklin sent to Count Vergennes sixty years ago. *Quod erat demonstrandum.* Such an assumption is too absurd to be assailed by serious argument.[1]

Lord Ashburton, in his first letter to Mr. Webster, of the 13th June, appears peculiarly solicitous to free his Government from the imputation of having urged a claim which they knew to be unfounded. In order to accomplish this purpose, he attempts to prove that the claim had been asserted previously to the treaty of Ghent. Now, sir, this I utterly deny. No question was ever made, until after that treaty, but that our line extended north of the St. John. On the contrary, this fact was clearly admitted in 1797, by agents of high character, acting under the express authority of the British Government. Ward Chipman, Esq., the agent of that Government, under Jay's treaty, for determining the true source of the St. Croix, expressly admits the fact. In his argument, he says that "*this north line must of necessity cross the river St. John.*" Nay, more: he insists that, "if a north line is to be traced from the source of the Cheputnatecook, (which was eventually established as the point of beginning,)

[1] See letter of Jared Sparks to Mr. Buchanan, Feb. 11, 1843, in Curtis's Buchanan, I. 505.

it will not only cross the river St. John, within about fifty miles from Fredericton, the metropolis of New Brunswick, *but will cut off the sources of the rivers which fall into the Bay of Chaleurs, if not of many others—probably the Merramichi among them—which fall into the Gulf of St. Lawrence.*" Robert Liston, Esq., then her Britannic Majesty's minister to the United States, in his correspondence with Mr. Chipman—and this but fourteen years after the date of the definitive treaty—clearly admits that this north line would cross the St. John. And yet Lord Ashburton, at this late day, is firmly convinced, not only that it would not cross the St. John, but that it would stop short at Mars Hill, and turn to the west some forty or fifty miles south of that river.

Previously to the treaty of Ghent, in 1814, the British Government had discovered the vast importance of obtaining a cession of that portion of our territory in the northern part of Maine, through which the direct communication lies between their provinces of Nova Scotia and New Brunswick and the city of Quebec. The British commissioners, at the first, did not insinuate that they had any right, under the treaty, to this northern angle of Maine, but merely proposed "such a variation of the line of frontier as might secure a direct communication between Quebec and Halifax;" and for this cession they were willing to yield an equivalent, "either in frontier or otherwise." It was not until after the American commissioners had declared "they had no authority to cede any part of the territory of the United States," that the British commissioners insinuated (rather than asserted) the first doubt in regard to our title. This faint pretension was ably and promptly repelled by the American commissioners; and the correspondence on this subject ended with a note from the British commissioners, in which they declare that "the British Government never required that all that portion of the State of Massachusetts (now Maine) intervening between the province of New Brunswick and Quebec should be ceded to Great Britain; *but only that small portion of unsettled country which interrupts the communication between Quebec and Halifax—there being much doubt whether it does not already belong to Great Britain.*" Great Britain would *then*, sir, you perceive, have gladly accepted this small portion of the disputed territory by cession, and granted an equivalent therefor, either in frontier or otherwise. What has she now obtained under the present treaty? Not merely the small intervening territory necessary to connect her two provinces —which was all she desired in 1814—but all the territory of

Maine north of the St. John and the St. Francis, containing 2,636,160 acres, or 4,119 square miles; and, in addition thereto, a strip of territory south of the St. Francis 110 miles in length, along the highland frontier of that State containing 571,520 acres, or 893 square miles. No man can even set up the pretence that this strip of territory is in any manner necessary to secure a direct communication between Quebec and Halifax. It has been wrested from us for a far different purpose. Instead of yielding us any equivalent for this cession, either in land or in money, as Great Britain was anxious to do at Ghent, we ourselves have agreed to purchase it from Maine and Massachusetts, at a stipulated sum, in order that we may cede it, without money and without price, to satisfy the arrogant pretensions of this domineering nation. The King of the Netherlands, although much under the influence of England at the time he made his award, never thought of giving her more of our territory than she claimed to be necessary for a free and direct communication between her provinces. It was reserved for an American Secretary of State to surrender this territory—and that, too, the highland boundary which secured Maine against the assaults of Great Britain—of eight hundred and ninety-three square miles, in order to satisfy her rapacity. The Dutch King had never dreamed of imposing on us any such humiliating terms.

But I am in advance of my subject, and must return. Lord Ashburton, intent upon proving (as well he might be, for the honor of his country) that the British claim was not a mere unfounded pretence to extort territory from a neighboring nation, refers to the instructions of Mr. Madison to Mr. King, in 1802, and the message of Mr. Jefferson to Congress, in 1803, for the purpose of showing that the treaty highlands, at the northwest angle of Nova Scotia, could not be found upon the ground. Recent surveys have clearly established that these distinguished men were both mistaken in this particular. But no matter. Has Mr. Madison or Mr. Jefferson ever admitted, if an actual mountain ridge could not be found upon the ground, that our north line from the monument should stop short south of the St. John, and should not be extended as far north as the region where the sources of those rivers "that empty themselves into the St. Lawrence" interlock with the sources of those "which fall into the Atlantic Ocean?" This will not be pretended. The fact is directly opposite; because Mr. Madison, in these very instructions to Mr. King to which his Lordship refers, declares dis-

tinctly, upon the presumption that a mountainous ridge could not be found upon the ground, that "*due regard ought to be had to the general idea that the line ought to terminate on the elevated ground dividing the rivers falling into the Atlantic from those emptying themselves into the St. Lawrence.*" If no actual highlands could have been found, it would nevertheless remain a geographical fact not to be contested, that there exists a range of country dividing the streams which flow, on the one side, into the St. Lawrence from those which flow, on the other side, into the Atlantic ocean. It was here, then, that, under the treaty, the northwest angle of Nova Scotia was to be found, and not in a range of highlands far to the south of the St. John, and far to the south of the sources of the streams which fall into the St. Lawrence. Accordingly, we find that in the second article of the treaty concluded at London, on the 12th May, 1803, between Mr. King and Lord Hawkesbury, the commissioners appointed under its authority were directed "to cause the said boundary line between the source of the river St. Croix, as the same has been determined by the commissioners appointed for that purpose, and the northwest angle of Nova Scotia, to be run and marked, according to the provisions of the treaty aforesaid" [of 1783.] You will observe, sir, that this treaty was negotiated under the very instructions from Mr. Madison to Mr. King, on which Lord Ashburton relies to defend his Government against the imputation that their claim to the disputed territory was not a mere unfounded pretence. The negotiators of this treaty of 1803, from its very terms, could have entertained no doubt but that the line between the monument and the northwest angle of Nova Scotia could be run and marked, according to the definitive treaty of peace. It is true that the treaty of 1803 was never ratified; but no objection was ever made by either party to the article containing this stipulation.

The truth is, that the present British claim was all an afterthought. It owes its origin entirely to the discovery that it was necessary, by some pretence or other, to wrest from us the territory which, if in our possession, might interrupt the communication between Nova Scotia and Quebec. They then contended that no actual highlands could be found upon the ground, such as those described by the treaty. They placed particular emphasis on the word "highlands," and insisted that, if a mountain range could not be found, the treaty was absolutely void, for uncertainty. But, when "highlands" are spoken of as dividing

waters flowing in opposite directions, is not the meaning of the term perfectly palpable? From the very laws of nature, such highlands must exist and slope off in opposite directions. Whether they consist of table-land, or even swamp, or shoot up into mountain ridges, still, if there be a height of land from which streams flow down in opposite directions, this most clearly answers the description of the treaty. It is not the elevation of these highlands, but their capacity to divide waters, which stamps upon them their character.

After the British Government had thus summarily annihilated the "highlands" of the treaty, they had still to perform other wonders. Even if this part of the description were gone, enough would still remain clearly to identify the treaty line—as Mitchell's map, and all other maps, plainly show a range of country separating "those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean." What task, then, had they next to perform? After sinking the highlands, they contended, with all imaginable gravity, that no rivers existed in that region which fell into the Atlantic. And why? The St. John (say they) is not a river falling into the Atlantic ocean, because it has its mouth in the Bay of Fundy; neither is the Ristigouche, because it has its mouth in the Bay of Chaleurs. And what is this Bay of Fundy itself, but a part of the Atlantic ocean? A bay is a mere opening of the main ocean into the land; and you might, with the same justice, contend that the Bay of Naples is not a portion of the Mediterranean, as that the Bay of Fundy is not a portion of the Atlantic ocean. What absolute trifling it is to contend that a river does not fall into the Atlantic, because, in reaching the main ocean, it may pass through a bay. The Delaware does not fall into the Atlantic, because it flows into it through the Bay of Delaware; and, for the same reason, the St. John does not fall into the Atlantic, because it flows into it through the Bay of Fundy! By the same process of reasoning, there is not a single river in the State of Maine which falls into the Atlantic ocean. They all have their mouths in different bays. Truly, the British claim does not rise to the dignity of a debatable question. It is not even a decent pretence.

But even after the British Government had thus annihilated the treaty highlands, and proved that the St. John, whose northern streams rise in these highlands, did not fall into the Atlantic, there was another description still left of the treaty boundary,

against which they have never been able to utter a word. It is a settled common-sense rule of construction, that if any portion of a description of boundary fail, yet if enough remains clearly to manifest the intention of the contracting parties, this is sufficient. Now, the British Government have never pretended that rivers do not exist which empty themselves into the St. Lawrence exactly in accordance with the description of the treaty. On Mitchell's map, you perceive the river St. Lawrence running from the southwest to the northeast; whilst numerous tributaries rising to the south of it, and passing north through its valley, empty themselves into the main stream. This portion of the description remains, and would be just as conclusive in favor of our right as though the treaty had referred to nothing else. The bad does not and cannot vitiate the good.

I have said much more on this branch of the subject than I had intended, not for the purpose of establishing our right, but to show that the miserable pretexts to which the British Government have been compelled to resort, in order to obtain our territory, are unworthy of a great nation, and that Lord Ashburton can never free them from the imputation of demanding that to which they must have known they had no right.

Let me now present a sketch of the history of this negotiation between Mr. Webster and Lord Ashburton, in relation to the Maine boundary, in a plain and distinct form, before the Senate. The first fact which strikes the mind with astonishment is, that Mr. Webster should have agreed, in their preliminary conferences, to waive all discussion "on the general grounds on which each party considers their claims respectively to rest," as not calculated to lead to any practical result. This appears conclusively from the very first paragraph of the first letter addressed by Lord Ashburton to Mr. Webster, on the 13th June, 1842, and his answer of the 8th July.

I may be asked what course Mr. Webster, in my opinion, ought to have pursued. I answer, he ought to have invariably insisted on our right to the disputed territory; but, at the same time, to have expressed his willingness, for the sake of good neighborhood, and in consideration of a fair equivalent in territory, to have yielded this right so far as to grant to Great Britain what her commissioners had so earnestly desired at Ghent—"such a variation of the line of frontier as might secure a direct communication between Quebec and Halifax." Nature herself seems to have pointed out these mutual equivalents. Whoever

will cast his eye over the map of Maine and New Brunswick, must be forcibly struck with this truth. If the right of way over our territory between Halifax and Quebec had been alone solicited, it ought to have been conceded to Great Britain in exchange for the right to navigate the St. John. But, as the British Government earnestly desired to possess the right of sovereignty in the soil over which this way passed, the northern triangle of Maine ought to have been surrendered for the much smaller triangle belonging to the province of New Brunswick, west of the St. John. This would have established a river boundary between the two countries, from the point where the due-north line from the monument strikes Eel river, all the distance round by Eel river, the St. John, and the St. Francis, to the western highland boundary of the treaty. But what is our present condition, under this treaty? We have ceded to Great Britain all the territory she desired; and yet we have not obtained this narrow strip of territory west of the St. John. She still retains it; and there an organized system of smuggling can be established, and from thence, in case of war, her troops can be poured into the very heart of the State of Maine. To preserve peace and good neighborhood between independent nations, a river or a mountain boundary has always been deemed of essential importance. And yet, strange as it may seem, we have never insisted upon this river boundary, on the east of Maine, which Nature herself seems to have established; whilst we have actually surrendered into the keeping of Great Britain the whole of our western mountain boundary.

Lord Ashburton having obtained from Mr. Webster the important concession that the right of the United States to the disputed territory should no longer be a subject of discussion, the next concession which this shrewd practical diplomatist desired to obtain seemed to follow as an almost necessary consequence. For years the British Government have contended that the whole territory of Maine north of these pretended highlands, which take a westerly direction from Mars Hill, was in dispute, and that it was impossible to ascertain the rights of the respective parties, according to the treaty. Assuming these facts, they had, over and over again, proposed to divide the disputed territory between the two countries, without granting any equivalent to us beyond its limits. When the American negotiator, therefore, in the very beginning, admitted that it would be vain for us to insist upon our rights under the treaty, it seemed to follow,

as a necessary consequence, that the disputed territory must be divided between the parties, according to the suggestion of the British Government. But this was far from the opinion of the Legislature of Maine. Indeed, it does not even seem to have originally been the intention of Lord Ashburton himself to make any such extravagant demand. The Secretary of State, in his letter to Governor Fairfield, dated 11th April, 1842, informs him that his Lordship had "*officially announced to this department that, in regard to the boundary question, he has authority to treat for a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as may be thought just and equitable.*" I would ask every Senator of this body if, when he first read this letter of Mr. Webster, it entered into his imagination to conceive that Lord Ashburton, by these expressions, meant no more than a division of the disputed territory between the parties. Had he thus expressed himself, in distinct terms—my life upon it, Maine never would have appointed commissioners. But Maine did not leave this question in doubt. Her Legislature, on the 20th May, 1842, at the time when her commissioners were chosen, resolved, "That this State cannot regard the relinquishment by the British Government of any claim heretofore advanced by it to the territory included within the limits of the line of this State, as designated by the treaty of 1783, and uniformly claimed by Maine, as a consideration or equivalent within the meaning of these resolutions."

It is a most curious point of diplomatic history, how, in the very face of this resolution of instructions, the Maine commissioners were led on, step by step, to give their assent to the present treaty. It will be well worth while to spend a few moments in tracing this strange history.

The commissioners of Maine had their first audience with Mr. Webster on Monday, 13th of June. On the 17th June, Mr. Webster informed Lord Ashburton that he was prepared to commence the negotiation. On the 18th June, they held their first conference; but what transpired at this conference is buried in oblivion. No record of it will ever meet the public eye. If Mr. Webster had evinced half as much skill in managing Lord Ashburton as he displayed in managing the commissioners of Maine, that State would have acquired the strip of territory on the right bank of the St. John, which she so much desired to possess.

The result of this conference was the letter of Lord Ashburton to Mr. Webster of the 21st of June. This letter, although conciliatory in its terms, is one of bold and barefaced pretension. It asserts the principle (which both the State of Maine and the General Government had so long resisted) that there must be a division of the disputed territory between the two countries, without any other equivalent to us; and it not only demands for Great Britain all the disputed territory north of the St. John and the St. Francis, but also the whole of the Madawaska settlement south of the St. John. Nay, more: his Lordship asserts a claim, of which we never had before heard, to the whole territory south of the St. Francis and west of the St. John, down to "some one of its sources" in the highlands—thus intending to deprive Maine not only of her western highland boundary, but of the whole valley between that boundary and the river St. John. He seems to have well understood the policy of asking much more than he would be willing to accept. In making this demand, his Lordship resorts to the common diplomatic finesse, that he could not, in any case, abandon the obvious interests of the Madawaska settlement south of the St. John; and, to give this and other declarations the greater effect, he solemnly declares: "I have not treated the subject in the ordinary form of a bargain, where the party making the proposal leaves himself something to give up. *The case would not admit of this, even if I could bring myself so to act.*" And yet the case did admit of this; and his Lordship did bring himself very quietly so to act, within a few days, and as soon as he discovered that the Maine commissioners had resisted this claim to the Madawaska settlement with becoming spirit, his pretended instructions to the contrary notwithstanding.

Mr. Webster refers this letter of Lord Ashburton to the commissioners of Maine, and reserves to himself the part of mediator between them and Lord Ashburton. In their note to him of the 29th June, they declare (page 56) that they can never surrender the Madawaska settlement south of the St. John; "and that, if the adoption of such a line is a *sine qua non* on the part of the British Government, the commissioners on the part of the State of Maine feel it their duty as distinctly to say, that any attempt at an amicable adjustment of the controversy respecting the Northeastern boundary on that basis, with the consent of Maine, would be entirely fruitless."

The Maine commissioners then proceed to offer to Mr. Webster a counter *project,* and to propose a conventional line. And

here permit me to observe, that it is a most astonishing fact, that these commissioners never even asked for a cession of the narrow triangular strip of land west of the St. John. I venture to say that no American statesman, who has ever examined the subject of a conventional line, has entertained any other idea than that this strip of land ought to be the equivalent for the tract of country north of the St. John and St. Francis. If a bare right of way was to be surrendered to England over the disputed territory, the navigation of the St. John would be the natural equivalent; but if, in addition to this, the British Government asked a cession of the sovereignty and soil of the territory north of the St. John, then the equally fair equivalent was a surrender by them to Maine of the strip of land north of Eel river, on the right bank of the St. John—thus establishing a river boundary between Maine and New Brunswick. This impression has been deeply fixed upon my mind for years. I have talked of it a hundred times, and every person with whom I have conversed has been under the same impression. This was the "general and confident expectation of the people of Maine," as we are informed by her commissioners. With a view to this, the Legislature of that State had solemnly resolved that no relinquishment of territory on the part of the British Government, within what it chose to denominate the disputed territory, should ever be considered by Maine as an equivalent for the surrender of any portion of that territory to Great Britain.

This resolution, it is well known, pointed clearly and distinctly to the acquisition of the strip west of the St. John. And yet the Maine commissioners, in their counter *projet*, not only did not demand this territory, but they expressly surrendered all claim to it. And why? Because, to use their own language, "they have been assured that Lord Ashburton is restrained, by his instructions, from yielding the island of Grand Manan, or any of the islands in Passamaquoddy bay, *or even any portion of the narrow strip of territory which lies between the due north line from the source of the St. Croix and the St. John river, above Eel river, (so called,) as an equivalent for any portion of the territory claimed by Maine as within her boundaries.*" By whom had they been thus assured? Unquestionably by Mr. Webster. By whom had they been prevailed upon to surrender the claim of their State to this strip of territory? Certainly by Mr. Webster, upon the assurance that Lord Ashburton was restrained, by his instructions, from yielding it. This was the fatal point of

the negotiation for the State of Maine. It was here that the rights of that State, and of the United States, were abandoned. This territory ought to have been resolutely demanded as an equivalent for the darling object which Great Britain had for so many years eagerly pursued—that of acquiring the territory over which lay the communication between New Brunswick and Quebec. If Lord Ashburton's instructions prohibited him from surrendering this strip of territory, new instructions could and would have been obtained, had they been found necessary. If this had not been the case, I would have referred the question to another arbitrator, (an alternative to which Lord Ashburton often alludes,) or have hazarded any other consequences, rather than have tamely yielded the principle against which we had so long contended—that our right to the disputed territory was doubtful; and therefore, because it was so, that a division of it ought to be made between the two nations. But his Lordship (according to his own declaration) never could have surrendered the Madawaska territory south of the St. John; and yet he did agree to surrender it before it was possible for him to have obtained new instructions from England. Had the Maine commissioners insisted upon this tract of country with the same manly firmness as they had done upon retaining the Madawaska settlement south of the St. John, in all human probability it would have been attended with a similar result. His Lordship's alleged instructions would have yielded to circumstances, as they had done before, and this negotiation might have closed with honor to the country. The moment that the Maine commissioners were prevailed upon to yield this point without a struggle, all was lost. Every principle for which we had so long contended was at once abandoned; and nothing more remained than to decide how much of the territory of Maine should be conceded to the demands of Great Britain. The Maine commissioners seem themselves to have been deeply sensible of this degrading truth. They declare that, as they can obtain no equivalent beyond the disputed territory, *"they feel themselves constrained to say that the portion of territory within the limits of Maine, as claimed by her, which they are prepared, in a spirit of peace and good neighborhood, to yield for the accommodation of Great Britain, must be restrained and confined to such portion only, and in such reasonable extent, as is necessary to secure to Great Britain 'an unobstructed communication and connexion of her colonies with each other.'"*

They then proposed to yield to Great Britain all that had

been awarded to her by the King of the Netherlands, (whose award the Senate had so promptly rejected, but which had been so eagerly accepted by the British King,) with the exception of a small portion of the territory north of the St. Francis. This proposition gave to England all the territory that was necessary to secure the communication between her provinces; but whilst doing this, it would, to a partial extent, have saved our Government from the disgrace of having, for so many years, warred against the award of the King of the Netherlands, and afterwards accepted worse terms than it proposed.

Mr. Webster, on the 7th of July, transmits this letter of the commissioners of Maine to Lord Ashburton, accompanied by a long diplomatic note. In this note he expressly recognises that his Lordship is not at liberty "to cede the whole or a part of the territory, commonly called the strip, lying east of the north line and west of the St. John." How had Mr. Webster acquired a knowledge of this most important fact? It must have been in their verbal conferences; for Lord Ashburton had not previously committed himself by any such declaration in any portion of his correspondence. In it he has nowhere stated that his instructions forbade him to make such a surrender.

It is also worthy of remark, that whilst Mr. Webster, with the strange inconsistency between his arguments and his actions which characterizes this negotiation, is communicating to Lord Ashburton a proposition to surrender to him all that portion of the disputed territory for which England had originally contended, and although he had thus rendered it impossible that any discussion of our title could benefit his country, yet he does, notwithstanding, demonstrate the right of the State of Maine to all this territory, with irresistible clearness and power. He is equally triumphant on this question, as on the Creole and Caroline questions, or in resisting the doctrine of impressment; but, unfortunately, his arguments have fallen to the ground, without producing any beneficial result.

Lord Ashburton, with that skill and address which have characterized him throughout the whole negotiation, now eagerly seized the advantage which he had obtained over Mr. Webster and the Maine commissioners. They had fatally, in advance, bound themselves to grant all that England originally sought or desired. To this extent they stood committed; and his object now was to obtain, in addition, a cession of the western highland boundary of Maine, for the purpose of covering Quebec, and of

assailing us with tremendous advantage in the event of war between the two countries. He now departs from the moderate and conciliatory tone which he had assumed everywhere else throughout the negotiation. In his letter to Mr. Webster of the 11th July, he scouts the proposition of the commissioners of Maine; indeed, he treats it almost as if it were an insult. He feels himself "quite at a loss" to account for such a proposal, and he appeals to the candid judgment of Mr. Webster to say "whether this is a proposition for conciliation." He says that he need not examine the line proposed by the Maine commissioners in its precise details, because he is obliged to state frankly that it is inadmissible.

But with all this affected indignation and astonishment, he is very careful not to break off the negotiation. He was too wise and too wary thus to endanger the advantage he had obtained. He therefore suggests to Mr. Webster that the negotiation "would have a better chance of success by conference than by correspondence." He trusts more in the diplomacy of the secret conclave, where there was no ear to hear and no pen to record their conferences, than in the bold, open, manly mode in which a negotiation ought to be conducted between the responsible ministers of responsible Governments.

In this letter of the 11th July, his Lordship insists upon our surrender of the district between the St. John and the highlands west of that river, and, without disguise, declares that he wants it "*for no other purpose than as a boundary.*" This, permit me to say, is the very reason why it should never have been yielded. These highlands were our natural boundary, as well as our treaty boundary; and we ought never to have surrendered them into the hands of the only formidable enemy we can ever have on this continent.

The prediction of his Lordship, that there would be a better chance of success by conference than by correspondence, was very soon verified. In four short days, these personal conferences produced a wonderful effect. On the 15th July, 1842, Mr. Webster proposes to the commissioners of Maine and Massachusetts the lines of the present treaty; urges them in the strongest terms to surrender the western highland boundary of Maine to England; proposes to pay them out of the treasury of the United States the sum of $250,000, as an equivalent for the surrender of this territory of 893 square miles; promises to refund the expenses which they had incurred for the civil posse they had

maintained, and the survey they had made; and concludes with the expression of his "conviction that no more advantageous arrangement could be made."

Let us here pause for a moment upon the astonishing fact that this proposition made to the Maine commissioners proceeded, not from Lord Ashburton, but from Mr. Webster; not from the British envoy extraordinary and minister plenipotentiary, but from our own Secretary of State. It was a proposition previously concocted between the negotiators, and its acceptance urged upon the Maine commissioners, as the British ultimatum, by the very man to whom the President had intrusted the rights and the honor of his country.

We now first hear from the Massachusetts commissioners; and their letter is truly characteristic. That State had no direct interest in the question of territorial sovereignty over the disputed territory, but merely in the right of soil. They accordingly treat it as a question, not of national honor, but of dollars and cents. They say to Mr. Webster, in their letter of the 20th July: "Whether the national boundary suggested by you be suitable or unsuitable; whether the compensations that Great Britain offers to the United States for the territory conceded to her be adequate or inadequate; *and whether the treaty which shall be effected shall be honorable to the country, or incompatible with its rights and dignity, are questions not for Massachusetts, but for the General Government, upon its responsibility to the whole country, to decide.*" They thus waive the question of national honor; but not so the question of dollars and cents. They higgle about the price to be paid for their land. They demand $25,000 more than Mr. Webster had offered. This seems to have been their *sine qua non;* and if the sum to be given them "shall be increased to the sum of $150,000, [instead of $125,000,] the State of Masachusetts, through her commissioners, hereby relinquishes to the United States her interest in the lands which will be excluded from the dominion of the United States by the establishment of the boundary aforesaid." It is needless to say that Mr. Webster would not stand long for $25,000, in such a bargain, especially when the money was to be paid out of the treasury of the United States.

The Maine commissioners seemed then to be abandoned by the whole world, and their position became truly embarrassing. This proposition was urged upon them, not by Lord Ashburton, but by their own Secretary of State, with the approbation of

their own National Administration. That man of gigantic intellect, whose great powers ought to have been taxed to the utmost to save Maine from dismemberment, was the very man who urged them to consent to the dismemberment. They were deserted, at the most critical moment, by the commissioners of Massachusetts, who had assented to the proposition of Mr. Webster. They were induced to believe that the question of peace or war was suspended on their decision. It was proclaimed in the streets of Washington that the obstinacy of the Maine commissioners alone prevented the settlement of all our questions in dispute with England. I was myself induced to give credit to this rumor; and when I was confidentially informed, by a Senator now on this floor, of the true nature of the case, my astonishment and mortification knew no bounds.

Under these circumstances, a most reluctant conditional assent to the proposition of Mr. Webster was extorted from the Maine commissioners. It is due to them that I should read to the Senate the terms in which it is given. Their letter to Mr. Webster bears date 22d July, 1842, and concludes with the following paragraphs:

> We are now given to understand that the Executive of the United States, representing the sovereignty of the Union, assents to the proposal; and that this department of the Government at least is anxious for its acceptance, as, in its view, most expedient for the general good.
>
> The commissioners of Massachusetts have already given their assent on behalf of that Commonwealth. Thus situated, the commissioners of Maine, invoking the spirit of attachment and patriotic devotion of their State to the Union, and being willing to yield to the deliberate convictions of her sister States as to the path of duty, and to interpose no obstacles to an adjustment which the general judgment of the nation shall pronounce as honorable and expedient, even if that judgment shall lead to a surrender of a portion of the birthright of the people of their State, and prized by them because it is their birthright, have determined to overcome their objections to the proposal, so far as to say, *that if, upon mature consideration, the Senate of the United States shall advise and consent to the ratification of a treaty, corresponding in its terms to your proposal, and with the conditions in our memorandum accompanying this note,* (marked A,) *and identified by our signatures, they, by virtue of the power vested in them by the resolves of the Legislature of Maine, give the assent of that State to such conventional line, with the terms, conditions, and equivalents herein mentioned.*

This conditional assent casts the responsibility of the treaty upon the Senate of the United States. It is for us to pronounce, in the language of the Maine commissioners, whether this treaty is honorable and expedient, and such a one as the general judg-

ment of the nation will approve. We must encounter this responsibility, whether we will or not.

It would be a waste of time to pursue the subject further, in detail. Mr. Webster, on the 27th July, in form, made the proposition to Lord Ashburton which had, in substance, been previously agreed upon between them, in personal conference, before it was presented to the Maine commissioners, and which he, therefore, knew would be accepted; and the treaty was concluded accordingly.

Thus have we yielded to a foreign power that ancient highland boundary for which our fathers fought. Thus has it been blotted out from the treaty which acknowledged our independence. Thus has England reclaimed an important portion of that territory, which had been wrested from her by the bravery and the blood of our revolutionary fathers. We have restored to her not only all the land north of the St. John and the St. Francis, but also our mountain boundary south of these rivers, down to the Metjarmette portage. Along the base of these mountains she can, and she will, establish fortifications and military posts, from which she may at once penetrate into the very heart of Maine. It is a vain labor for the Secretary to prove that the territory ceded is unfit for cultivation. England did not demand it for its agricultural value. Why did Lord Ashburton insist upon its surrender with so much pertinacity and zeal? Because it not only covered Quebec and Lower Canada from our assaults, but exposed our territory to the assaults of England, without any interposing natural barrier. On the east, on the north, and on the west, Maine is now left naked and exposed to the attacks of our domineering and insatiable neighbor; and we have bestowed upon her all this territory, without having asked her to grant us even the small strip north of Eel river, on the right bank of the St. John, which would have given us, to that extent, a river boundary. These highlands, throughout their whole range, from the northwest head of the Connecticut river to the northwest angle of Nova Scotia, which divide the rivers flowing into the St. Lawrence from those which empty themselves into the Atlantic ocean, will exclusively belong to England, should this treaty be ratified by the Senate. The Alpine boundary (which Adams and Franklin and Jay had secured to their country by the treaty of Independence) has been extorted from us by our most formidable enemy. We have acted as the Roman Republic would have done, had she surrendered the Alps to the

hostile nations of Gaul and Germany, and thus opened the way for the invasion of Italy. And this suicidal policy has been adopted, upon the principle, or the pretext, that our Alpine barrier and boundary were not fit for cultivation! This is the argument of Mr. Webster.

The ancient Romans worshipped a god called Terminus. He was the guardian of the boundaries of the Republic; and such was his power that he would not yield even to Jupiter himself. Upon this principle, it was a sacred maxim, both of their religion and their policy, that their boundaries should never recede. The Republic was more than once driven to the last extremities. Her capital was sacked, and ruin seemed more than once to be her inevitable destiny; but, in the midst of desolation and defeat, no Roman Senator ever dared to propose the smallest cession of her sacred soil. The boundaries of the Roman Republic never receded; and we ought to have imitated her policy in this respect, however much we may condemn her love of conquest—unless, indeed, we had obtained an equivalent cession of territory. The demand to surrender the highlands which protected our frontier south of the St. Francis ought to have been met by an instant and absolute refusal, no matter what might have been the consequence. Instead of buying them from Maine and Massachusetts, in order that we might surrender them to England, we ought at once to have announced that we never could permit such a surrender to become the subject of negotiation.

It has been said (and probably with truth) that, in case we should ever determine to invade Canada, we would not march over these highlands. But this is not the question. Let us reverse the case, and suppose that England should determine to invade us from Canada: would she not gradually collect and concentrate her forces on the territory which we have yielded to her east of these highlands, and from thence pour her forces into Maine without obstruction? And it must have been chiefly to obtain this very advantage that Lord Ashburton was so anxious to acquire this territory, which, forsooth, we are told is not fit for cultivation. The only crop which she desires to raise upon it, like that of Cadmus, is a crop of armed men.

And yet, to excuse this surrender, we are presented with the pretence of having obtained equivalents in lands better fitted for cultivation. What are these pretended equivalents? In describing them, I cannot do better than to adopt the language of the

commissioners of Maine. "In New Hampshire (say they) Lord Ashburton consents to take the true northwest source of Connecticut river, instead of the northeast source." That is, in other words, he consents to abide by the clear language of the treaty of Independence, instead of persisting in the demand of England to substitute the northeast for "the northwesternmost head of Connecticut river." "In Vermont, he will abide by the old line which was run, marked, and solemnly established nearly seventy years ago. In New York, he will abide by the same old line, the effect of rectifying it being merely to give to New York a small angular strip on the west, and Great Britain a small angular strip on the east." "These small tracts and parings" (to use the language of the commissioners) are to be the equivalents for surrendering our mountain boundary into the keeping of Great Britain, without any estimate of the value of the strip which we have surrendered to her of our undisputed territory, along the line running due north from the monument. He has thus most graciously consented not to take advantage of the very trifling mistake committed by the British Government itself, more than seventy years ago, in running and marking the 45th parallel of latitude, and under which we have held possession ever since we were an independent nation.

I shall not speak of the equivalents which the Secretary claims to have obtained in the Northwest. The Senator from Missouri [Mr. Benton] has already placed this part of the subject in so clear a light that it would be a waste of time again to present it to the Senate. He has demonstrated that, instead of acquiring any territory in that quarter to which we were not clearly entitled under the treaty of 1783, we have actually sacrificed important territorial rights which we held under that treaty.

The only concession on the part of Great Britain which has even the appearance of an equivalent for the 5,012 square miles of territory which we have ceded to her north of the St. John and the St. Francis, and the 893 square miles south of the St. Francis, is the navigation of the St. John. I say the *appearance;* for there is no reality in it. Had we yielded to Great Britain no more of the territory of Maine than that which was awarded to her by the King of the Netherlands, there would have been some plausibility in calling this a partial equivalent. But what is now the state of the case? We have surrendered to her a territory embracing the head waters of several of the branches and tributary streams of the St. John. The moment we made

this concession, the surrender of the free navigation of that river became a matter of necessity, not of choice, for England. In order to purchase a right for the inhabitants of this ceded territory on the upper St. John, and the military posts which may be established there, to navigate that portion of the river which flows through our territory, England had no alternative but to grant to us a similar right of navigation along that portion of the river below, within her exclusive jurisdiction. Hence we find in the article of the treaty relating to this subject, a stipulation on our part that "the inhabitants of the territory of the upper St. John, determined by this treaty to belong to her Britannic Majesty, shall have free access to and through the river for their produce, in those parts where said river runs wholly through the State of Maine." Thus it appears, on the very face of the treaty, that the right of each party to navigate the river within the territories of the other is a mutual and reciprocal right. They are the equivalents of each other, and nothing more, and can be an equivalent for nothing else. Without access to New Brunswick and the city of St. John through the river, the value of our cession to her on the upper St. John would have been greatly diminished; and she could not in conscience ask a right of navigation through our territory, which she was unwilling to grant through her own.

But again. Even if we had ceded no territory to England on the upper St. John, how could the right to navigate this river be considered as anything more than an equivalent for a right of way over our territory between New Brunswick and Canada? But we have not merely granted to her this right of way, but all the territory on both sides of it, extending from the St. John and St. Francis north to the treaty highland boundary.

But once more. This grant of the free navigation of the St. John is equally advantageous (to say the least) to New Brunswick as to Maine. The timber of that province on the St. John and its tributary streams has been nearly exhausted; and the timber of Maine is now necessary, to enable the people of New Brunswick and the city of St. John to carry on their profitable lumber trade with the mother country and her colonies. The privilege of transporting it down that river would have been cheerfully granted without any treaty, because England never neglects her interest; and yet this privilege is converted into an equivalent for yielding to Great Britain between four and five millions of acres of our territory.

Away with such pretences! They are nothing more than mere flimsy apologies for the disgrace of an unqualified surrender of our territory to British dictation. They are the miserable pretexts under color of which it is expected that this disgraceful treaty shall escape from public indignation.

There is one fact strictly in character with this whole transaction, which deserves special notice. It is this: that, under the terms of the treaty, we have solemnly bound ourselves to Great Britain that we shall pay to our own States of Maine and Massachusetts the expenses of their civil posse and their survey, and also the three hundred thousand dollars in consideration of their assent to the new line of boundary. On the face of the treaty, then, these two States have been restored to the protection of England, so far as the payment of this money is concerned. England, under the treaty, would be bound to demand and enforce its payment against the United States; and thus we have placed in the hands of a foreign nation the power to interfere in behalf of two States of this Union against their own Federal Government. Lord Ashburton himself thus construed the treaty; because, on the 9th August, he addressed a note to Mr. Webster, asking him to state that the British Government should incur no responsibility on account of this engagement; and to this Mr. Webster assented.

Now, sir, I know full well that neither Maine nor Massachusetts would ever have invoked, under any circumstances, the interposition of the British Government to compel that of the United States to pay this money; but yet, on the face of the treaty, their right to pursue such a course is apparent. This treaty will be bound up in collections of treaties, without the accompanying correspondence; and the disgraceful fact will appear, without any explanation, that we have bound ourselves to England that we shall observe good faith towards two of the members of our own confederacy. In order that we may appear fair upon the record, I shall, at the proper time, move to strike out this stipulation, which ought never to have been inserted in the treaty; and leave these States in form, as well as in fact, to their remedy against the General Government. I cannot anticipate any opposition to such a motion.

Before I leave this branch of the subject, permit me to remark that I disclaim any imputation of improper motives to the commissioners of Maine in regard to their conduct. On the contrary, I entertain the highest respect for one and all of them.

They have been led on, step by step, to the consummation at which they arrived; when I firmly believe that, if the proposition to which they finally gave their reluctant conditional assent had been presented to them at the first, in all its naked deformity, they would have repelled it as an insult to the patriotic and gallant State of which they were the honored representatives.

I have now reached the Northwestern boundary question; which is, by far, the most dangerous and important question between the two nations. When Lord Ashburton arrived in this country, as the harbinger of peace, declaring himself to have been charged with full powers to negotiate and settle all matters in discussion between the United States and England, we had every reason to believe that the boundary question, in its whole extent, both in the northeast and the northwest, would have been finally adjusted by the negotiators. In consequence of this confident expectation, my friend from Missouri [Mr. Linn] ceased to urge his bill to establish a Territorial Government in Oregon upon the attention of the Senate, lest it might injuriously interfere with the pending negotiations. But what has been the catastrophe? Our Northwestern boundary not only forms no part of the treaty, but is not even mentioned or alluded to in the correspondence. We have a correspondence on the case of the Creole, on the case of the Caroline, and on the doctrine of impressment; but Mr. Webster has never addressed a line to Lord Ashburton against the encroachments of Great Britain on that vast region of our territory west of the Rocky Mountains. The only allusion which has been made to the subject, is in the President's message transmitting the treaty to the Senate. He merely states that, "after sundry informal communications with the British minister upon the subject of the claims of the two countries to territory west of the Rocky Mountains, so little probability was found to exist of coming to any agreement upon that subject at present, that it was not thought expedient to make it one of the subjects of formal negotiation, to be entered upon between this Government and the British minister, as part of his duties under his special mission."

"It was not thought expedient to make it one of the subjects of formal negotiation!" We shall not, then, even enjoy the miserable privilege of the vanquished;—by all our sacrifices, we have not even purchased our peace. In all human probability, this question will never now be settled without a war, or without a surrender to Great Britain of the whole Oregon Territory north

of the Columbia river; and it is even doubtful whether her lust of dominion will be satisfied with such a concession. Nay, more; we have not even purchased a momentary tranquillity; because the danger is impending, and before the close of the next session of Congress we shall probably determine to take possession of this territory. In that event, it will be almost impossible to prevent collision between the two powers in this remote region.

If "so little probability was found to exist of coming to any agreement on that subject at present," what ground is there for hope in the future? If Great Britain, when under the pressure of two expensive and disastrous wars in Asia, with a revenue inadequate to her expenditures, and a population on the very verge of rebellion—and this, too, at the moment she was eagerly intent on territorial acquisition from us in Maine—asserted claims so unreasonable to our territory on the Columbia as to remove all probability that they could be adjusted,—what can we expect hereafter, having surrendered the vantage ground? The prospect ahead is indeed gloomy. It matters not that our title is clear, for it is not clearer than it was to the disputed territory in Maine. It matters not that both by discovery and by cession we are entitled to all the region watered by the Columbia and its tributaries. Great Britain has fixed her heart upon it, and will now never peaceably abandon it, unless under the pressure of future misfortunes. She has already taken permanent possession of the country north of the river, through the agency of the Hudson Bay Fur Company. She has established forts, built ships, cultivated the soil, introduced domestic animals, erected mills, and done everything to indicate that she means never to abandon it. She has long been in the exclusive enjoyment of the valuable fur trade of these regions, and has by this means acquired an influence over the Indians, which would enable her at any moment again to let them loose upon our defenceless frontiers. Besides, the mouth of the Columbia is one of those commanding commercial positions which it has ever been her policy to acquire—peaceably if she could, but forcibly if she must. And yet we are told by the President that it was not thought expedient to make this one of the subjects of the late negotiation!

With what irresistible power might Mr. Webster have urged upon Lord Ashburton the settlement of our Northwestern boundary! He might have said to him, "You came here as the messenger of peace, to settle all the questions in dispute between us.

I have consented, on your urgent solicitation, that none of these questions shall be adjusted, except that of the boundary between the two nations. But shall we not settle the whole boundary? Is it reasonable or just that we should surrender to you all you desire on the northeast, whilst you refuse even to enter into any negotiation for the settlement of the boundary on the northwest? You say that permanent peace and friendship between the two nations is your heart's desire; why, then, leave a question unsettled which contains within itself the germs which may produce war at no distant period? This is a question of much greater importance to the two nations, and consequently of a much more dangerous character, than that in relation to the Northeastern boundary. If, therefore, you will have the Northeastern boundary established according to your wishes, we must also insist that the Northwestern boundary shall be defined. This is the only security which either nation can possess for permanent peace and good neighborhood. The settlement of the one question shall be the condition of the settlement of the other." Instead of this, we have given to England all she demanded on the northeast, where we are the stronger power, and left the boundary unsettled on the northwest, where we are the weaker. We have failed to take advantage of the most propitious moment which has ever occurred for adjusting this dangerous question on fair and honorable terms; and I fear we are destined to reap the bitter fruits of our own folly.

Besides, by dividing that portion of the territory of Maine with England, simply because England persisted in declaring that it was disputed territory, (although every Senator will admit there was no serious cause for dispute,) we have established a precedent under which she will be emboldened to make equally unreasonable demands upon us in the northwest. With nations, as with individuals, *obsta principiis* is a wise maxim. Resist the first encroachments with manly firmness, and future attempts will not be made. Above all other nations, this is true in regard to England, who, in her foreign policy, has never failed to make one concession the ground of demanding another. You can never propitiate her by yielding. A determined spirit and a bold front are necessary to obtain from her both respect and justice.

But what will be the effect of concluding a treaty with England, in which no mention has been made of our righteous claim to the territory west of the Rocky Mountains, of which she now enjoys the possession, especially when there has been

no assertion of our right in the course of the correspondence? I shall purposely waive the discussion of this branch of the subject, with the single remark—that this circumstance must operate to our prejudice in any future negotiation. In any view of the subject, it was the duty of Mr. Webster to have insisted upon the settlement of this question, and to have demonstrated our right, not only to the territory washed by the waters of the Columbia, but to the parallel of 54° 40′ north latitude, in that clear and forcible manner for which he is distinguished when advocating the cause of truth and justice. Had this course been pursued, we should at least have been presented with the present views of the British Government in regard to the nature and extent of their claim. If nothing more could have been obtained, we might have had a correspondence on the subject, which would have shown to the people of this country what would be the probable conduct of England hereafter. Being thus forewarned, we might have been forearmed. But we are now left entirely in the dark as to the nature of her pretensions. We have received no intimation of the character of "the sundry informal communications with the British minister on the subject," to which the President alludes; and, like all the other personal conferences between the negotiators, they are buried in oblivion, without any written memorial to mark their character.

I have thus concluded all I had intended to say upon this treaty. I cannot vote for its ratification without doing violence to my own conscience and my most cherished principles. Nor am I to be driven from my propriety by the dread of war. I do not apprehend that war would be the consequence of our refusal to ratify this treaty. Lord Ashburton himself has everywhere alluded to another arbitration as the alternative of a failure of success in the negotiations. If another arbiter should even make an award as unfavorable to this country as the terms of the present treaty—an event which I should not anticipate—still we could submit to his award without forfeiting our own self-respect. There would have been no national degradation in submitting to the award of the King of the Netherlands; but very different is the case when we ourselves surrender to England even more than he had bestowed upon her, after having, for so many years, resisted this award.

But suppose war should be the inevitable result? There is one calamity still worse than even war itself; and that is, national dishonor. The voluntary restoration to Great Britain of any

portion of the sacred soil "of the old thirteen," which they had wrested from her dominion by the war of independence, without any corresponding equivalent in territory, is an event without a parallel in our past history; and I trust in Heaven that our future annals may never be disgraced by a similar occurrence. We might have yielded this with honor, in obedience to the award of a sovereign arbiter chosen under the provisions of the treaty of Ghent; but we can never yield it, without national disgrace, to the imperious demand of that haughty power. In expressing myself thus independently, I am far, very far, from intending to impeach the motives of Senators who are friendly to the treaty. I know and appreciate the purity and patriotism of their intentions, and sincerely regret that my own sense of duty compels me to differ so widely from them.

REMARKS, AUGUST 25, 1842,

ON THE DUTIES ON IRON AND COAL.[1]

Mr. Buchanan said it would become his imperative duty at some stage of this debate to say a few words in relation to the duty upon iron; and, perhaps, there would not be a better time to do so than at present. His own State was deeply interested in the manufacture of this article; and yet, if he knew himself, he did not desire one cent more of duty than to enable the manufacturers to live. He desired only a revenue duty, with the incidental protection which that duty would afford. The duties upon bar iron in the years 1839 and 1840 produced upwards of two millions of dollars per annum. The rate of duty here proposed, then, he was convinced, would not prevent the importation of the article. If the Senator from Maine had made his proposition for a reduction upon the next article, it would have been much more reasonable. A duty of $17 a ton would not come up to the standard of his friend from Arkansas—namely, 25 per cent. But as to the condition of his own State, with which he desired the Senate to be acquainted: After the late war, when the manufactures of the country were in a depressed condition, and at a time when patriotism was alive, and it was considered necessary, in the language of President Jackson, to protect the iron

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 936–937.

manufacturing interest—for our protection in war, as well as independence in time of peace—a duty of $30 a ton was imposed on rolled iron. The effect of this high rate of duty had been to enable the State of Pennsylvania to produce between twenty-one and twenty-two millions of dollars of iron manufactures per annum more, he believed, than the value of all the cotton produced in any one State.

From all the information that he could obtain, a duty less than $24 or $25 a ton would destroy nearly all the furnaces in the State of Pennsylvania. Did any Senator desire the occurrence of such an event? That vast interest—which had been raised up, not at the suggestion of the manufacturers, but by your own law—would be destroyed, and the demand for the foreign article would be increased, and consequently the price would be increased at least 33⅓ per cent. For the manufacturers themselves he cared very little; they were nearly all of them opposed to him in politics, [a laugh,] and he had no fellow-feeling with them, except so far as their support would benefit the country. But the real condition of the State of Pennsylvania was, that the furnaces furnished an extensive market for the agricultural productions of the neighborhood; an immense number of poor persons were employed about the work, and they were almost entirely disqualified from any other business. His heart withered at the idea of the distress that would be produced throughout that part of the country by the cessation of the operation of those iron manufactories. He considered $17 a ton as not by any means too high a rate; in fact, it would not come up to the standard of his friend from Arkansas; and he believed even the gentleman from South Carolina himself, who had expressed his entire approbation of the former duty, and had derived extensive popularity from that circumstance, would not offer any opposition now to the rate proposed. He (Mr. B.) was willing that it should be reduced $5 lower than it was in 1816. He was willing to adopt the recommendation of the Committee on Manufactures in regard to pig iron; but in respect to hammered iron, there was less reason for reduction than there was in regard to any article upon which duty was to be levied.

Mr. Woodbury observed that, by mixing up these two kinds of iron—rolled and hammered—some difficulty was produced. The duty of 1816 was $9 per ton on hammered iron, and on rolled iron $30 per ton. He pointed out the reductions of price since that period. The price of rolled iron now, in England,

does not exceed one cent per pound; hence the duties of 1816, on the prices of that day, would be no rule for the same duties, or anything like them, on the present prices—so much was the price reduced by improvements in machinery.

Mr. Buchanan asked, if hammered iron be $54 per ton, what addition for home valuation the Senator from New Hampshire would make.

Mr. Woodbury said he would add ten per cent. on the foreign invoice.

Mr. Buchanan observed that he thought the Senator had reported, when Secretary of the Treasury, from 10 to 20 per cent. for the home valuation; and that, added to the invoice price, would not make the duty 25 per cent.

After a few explanatory remarks as to the home valuation, from Messrs. Woodbury, Buchanan, Calhoun, Miller, and Huntington—

Mr. Buchanan called for the yeas and nays; which were ordered.

The question was then taken on the amendment of the Finance Committee to substitute $16 for $17 per ton on bar iron, &c., and resulted in the negative—yeas 21, nays 22, Mr. Buchanan voting in the negative.[1]

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The next amendment was, after the tenth paragraph of the 4th section, viz: "on coal, $1.75 per ton; on coke, or culm of coal, five cents per bushel," to insert, "*Provided,* That all foreign coal imported into the United States shall be equally entitled, with other importations, to the drawback of duties paid, on being exported thence, and upon satisfactory proof being adduced, conformably to regulations to be prescribed by the Secretary of the Treasury, that the coal so exported, if not landed abroad, was not relanded in the United States, but was consumed on board the vessel in which it was so exported, upon the voyage of exportation, before arriving at the foreign port of exportation."

Mr. Buchanan was sorry that he was again compelled to address the Senate. This very proposition had been brought

[1] The next amendment was to change the proposed duty of $27.50 a ton on rolled bar iron to $24. Mr. Evans moved to amend the amendment by substituting $25 for $24. This was adopted by 23 yeas to 22 nays, Mr. Buchanan voting in the affirmative.

before the Senate on a former occasion, and debated for a whole day by the Senator from New York and himself; and it was then condemned by a large majority. In the House it was condemned by a large majority; and now it met them again in this bill. He desired to say a few words upon it.

The amendment provides that all foreign coal imported into this country shall be entitled, with other importations, to a drawback. Now, (continued Mr. B.,) there is no other article, under similar circumstances, that is entitled to drawback. In all cases, you have to produce to the collector of customs a certificate of the relanding in a foreign country, attested by the consul; but here, for the first time, you introduce the principle that an article consumed on board the ship is entitled to drawback. What will be the consequence? Foreign beef, pork, salt, sugar, &c., which are required for consumption on board vessels, will be entitled to drawback; and on what evidence? Upon the evidence of the captain of the vessel and the crew. He would ask why should Maryland and Pennsylvania coal be put in a worse condition than articles produced by other States; and in favor of whom? Of the large steam-navigation companies, the stock of which is held by foreigners. He desired that they should have all the advantages they were entitled to, but he would not place them in a better condition than our own citizens.

REMARKS, AUGUST 27, 1842,

ON THE TARIFF.[1]

The Senate having, on motion of Mr. Evans, taken up the bill to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes—the question pending being on ordering the amendments to be engrossed for a third reading—

Mr. Buchanan said he owed it to his own peculiar position in relation to this bill, as well as to the importance of the interests which it involved, to address the Senate for a few minutes upon the subject under consideration. He had never felt himself placed in a more embarrassing position than that which he occupied at the present moment. In this situation he had anxiously endeavored to discover the path of duty; and having, as he be-

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 950–952.

lieved, succeeded, he had determined to tread it, without fear of consequences.

Sir, (continued Mr. B.,) the only alternative now presented to the Senate is, whether we shall pass this bill, or leave the country in its present deplorable condition. Every substitute proposed for the bill has failed; and it is morally impossible that any other measure can now be introduced in its stead, with the least hope of success. The last hour of the session is rapidly approaching; and we must speedily resolve either to pass the present bill, or to do nothing.

In what I intend to say, I shall studiously refrain from arousing any political or personal feeling, but shall be content simply to place myself in that position before my own constituents and the country where I desire to stand.

Let us, then, for a few moments, consider the two horns of the dilemma—the two alternatives presented to the Senate. If you shall adjourn without passing any bill, what will be the consequences? In the first place, you will then continue, and most probably perpetuate, the distribution of the proceeds of the public lands among the several States. This is inevitable, if you should not raise the duties on imports above twenty per cent. Now, sir, whilst I freely accord to my Whig friends the utmost honesty of purpose in clinging to this distribution, they will allow me credit for an equal degree of sincerity, when I declare that, in my opinion, it is one of the most unwise—nay, dangerous—measures which has ever been adopted by Congress. I do not intend to go into the general question at present—having already, during the present session, fully presented my views upon the subject. Thus much, however, I shall declare—that, if we squander away our most magnificent inheritance of the public lands, it is my firm belief that we and our descendants will regret the deed to the latest posterity. Whilst we retain this glorious fund, purchased by the toils and the blood of our revolutionary ancestors,—let foreign war come when it may; let our commerce be swept from the ocean by a superior naval power; and let there no longer be any revenue from customs,—still we shall have a never-failing resource in the revenue from the public lands to assure our independence and our safety. This consideration alone is sufficiently powerful to induce me to vote for almost any bill which would arrest this fatal distribution. I would consider almost any bill (and, in several particulars, I dislike this bill as much as any Senator on this floor) a triumph, which shall restore

the land fund to the treasury of the United States, and settle this agitating question. I introduce this subject, not for the purpose of exciting political debate, but for that of presenting myself in my true attitude before the people of the country.

Again: if we adjourn without passing any bill, what will be the condition in which we shall leave the treasury of our country? Why, sir, many of the ablest lawyers throughout the Union, as well as a large majority in both Houses of Congress, hold the opinion that there is now no law in existence under which any revenue can be collected. This is the almost universal opinion of the Whig party; and it is also the opinion of my friend from South Carolina, [Mr. Calhoun,] on whose judgment I am disposed to place great reliance. This, I confess, is not my opinion; but experience has taught me to distrust my own judgment, especially upon legal questions, when it comes in conflict with that of wiser and abler men. Should they prove to be right,—if we adjourn without passing any bill, we shall fix a deep and disgraceful blot upon the character of the country, which time could not efface.

But even suppose it should hereafter be decided that duties can be collected under existing laws: the consequences would be almost as appalling. Every dollar of duty which is now paid is paid under protest; and, to say the least, it is extremely doubtful whether every cent of revenue that is now received at the custom-house must not eventually be refunded. The whole scanty and deficient revenue of the Government is now in litigation, and, if we should adjourn without passing any bill, will continue to be in litigation; and no man knows what will be the result. This is the condition of the treasury of our country at the present moment. Now, sir, is this a condition that any man—any American citizen—any American patriot—can contemplate without feelings of shame, mortification, and sorrow?

And how stands our national credit at the present moment? In that abject posture to which our reckless course has reduced it. Sir, public credit is the very lifeblood of the nation. To restore it, we ought to make every sacrifice consistent with honor. We had ever maintained our credit unsullied, from the time when we sprung into existence as a nation until the period when unfortunate dissensions arose between the dominant party and the President. *Now,* our treasury is insolvent; the public creditors have large demands against it, which it is unable to meet; the state of things is daily growing worse, and there is even danger

that the operations of the Government may be wholly suspended; and yet we propose to adjourn, leaving the country in this fearful, this deplorable condition. Bad, indeed, must be the bill presented before me, if it be, as it is in this case, the only alternative for these evils for which I should not vote. I confess I shrink from the responsibility of recording my vote against this bill, when its fate may, and most probably will, depend upon my single voice.

I have never, in the whole course of my life, read any publication with deeper feelings of mortification than an extract from an article in a London paper, which I have just seen in the National Intelligencer of Thursday last. In what estimation is the credit of this great and glorious Republic now held on the other side of the Atlantic? That proud and arrogant nation, to whom you have sent a special messenger to beg for a loan to supply your exhausted treasury, has received your messenger with contempt and scorn. The language of this article is so strong and so unjust, that I shall not repeat it in the American Senate. Your messenger is treated with contempt, when he presents himself before the British capitalist. He is told that the credit both of the States which compose the Union, and of the Union itself, is so low that no money can be borrowed upon the pledged faith of the United States. In the public journals, capitalists are forewarned against him, and cautioned not to render themselves the dupes of our Government. And this in England! How mortifying to the honest pride of every true-hearted American!

Now, I maintain that the first duty of an American statesman is to make any honorable sacrifice of opinion which may be necessary to sustain the credit and character of his country. Without the passage of this very bill—for we can obtain no other—we shall be disgraced at home, and still more disgraced abroad. Without it, we descend from our lofty elevation, and tarnish that high character which it is our duty to maintain at every sacrifice.

But the worst has not yet arrived. If Congress should adjourn without passing any revenue bill, after having already appropriated twenty-four millions of dollars, in what condition will the Government itself be placed? It will be destitute of the means to meet your own appropriations; and it may not even be able to keep your navy afloat, or to pay the officers and soldiers of your army. We shall leave behind us a bankrupt treasury, and

shall return home to meet a ruined people. With what joy such disastrous events would be hailed by the enemies of our free institutions throughout the world! whilst the friends of freedom in every land, who have been looking to our example as their star of hope amidst the gloom of despotism, would receive the dismal intelligence with the most melancholy forebodings.

Without adverting further to the condition in which we should leave the treasury and the Government of our country, let us take a hasty glance at the consequences to large classes of our best and most useful citizens. If you pass no bill, you will ruin a very large portion of all the mechanics and artisans throughout the country. These are not to be counted by hundreds or by thousands, but by hundreds of thousands; and for intelligence and devotion to country they are not surpassed by any other class in the community. They earn their daily bread by the sweat of their face, and are justly entitled to our sympathy and kindness. Under the uniform twenty per cent. ad valorem duty of the compromise law, they must abandon their business, or be deprived of employment. I have been informed, from numerous and authentic sources, that sore distress already prevails among them, especially in our large Atlantic cities, and that their prospects for the next winter are terrible. The price of mechanical labor is much cheaper in Europe than in this country; and, therefore, if you impose no higher rate of duty upon the made-up article than upon the material of which it is composed, you must destroy their business. Impose the same rate of duty upon foreign cloth and upon ready-made clothing—upon foreign leather and upon boots and shoes—and your tailors and shoemakers have no incidental protection whatever. And why? Because, notwithstanding your duty, their labor comes into equal and direct competition with the pauper labor of foreign countries, and we shall be supplied with ready-made clothing and with boots and shoes from abroad, at lower prices than they can by possibility be afforded at home. I might greatly extend this list of mechanics, by adverting to hatters, saddlers, and other tradesmen; but I forbear. Whatever, then, may be your duty upon the articles which these mechanics work up, you must discriminate by imposing a higher duty upon the article when prepared for use by the foreign mechanic, or you must deprive our own mechanics of employment. Such a result would be deprecated by every Senator upon this floor. The present bill makes the necessary discrimination.

I shall not now dwell upon the distress which would be produced throughout my own State, among the laboring classes who have heretofore found employment at our numerous furnaces and forges, and in our coal-mines. From their habits of life, they are in a great degree unfitted for other employments; and even if this were not the case, there is no demand for their labor in any other pursuit. My heart sickens at the prospect of misery and distress which will visit them and their families throughout the approaching winter, if no bill should pass. But I have heretofore adverted to this subject more at large, and shall not farther pursue it at the present.

I have thus hastily sketched one side of the picture; and now let me hasten to the other. I admit, most cheerfully, that the bill is extravagant in the protection which it affords, and, in some instances, is altogether prohibitory. It is a bill of which I do not approve, and for which I would not vote, were it not for the present unparalleled condition of the existing law, the treasury, and the country. I had earnestly hoped that it might be modified and amended by the Senate in such a manner as to render it more acceptable; but in this I have been utterly disappointed. No reduction of duties whatever has been made upon any of the protected articles, with the exception of iron—an article in which Pennsylvania is deeply interested—and one cent per square yard on cotton bagging. The duties upon hammered, rolled, and pig iron have been reduced considerably below the standard of the act of 1832; but of this I do not complain. I do not desire that any manufacture of Pennsylvania should be protected by a prohibitory duty. All I ask is that such incidental protection may be afforded as will enable the manufacturer to live. I ask no more, notwithstanding the annual value of iron and its manufactures alone, produced in that State, has been estimated, by those who understand the subject, at more than twenty-one millions of dollars—a greater amount than the whole value of cotton produced in any State of this Union. No Senator can suppose that I would patiently witness the sacrifice of such a vast interest in my native State. The duty on iron in bars is so far from being prohibitory, that in 1839, when it was nearly the same as it would be under the present bill, it alone yielded to the treasury more than two millions of dollars. I venture to predict that bar iron, under this bill, (should it become a law,) will yield a greater amount of revenue, in a fair proportion, than any other article in the whole catalogue. Sir, most of the other great

interests of the country have received as great, and many of them a greater, protection than was afforded them under the act of 1832. If, therefore, I were to look at this bill in a sectional point of view, or if it were presented to me in any other aspect than as a means of saving the country from impending distress, I should most certainly vote against its engrossment.

When I came to Congress at the commencement of the present session, I confess I entertained better and brighter hopes. I thought that the propitious moment had arrived for settling the tariff question upon a permanent basis. I hoped that such a scale of duties could have been agreed upon, considering the pressing demand for revenue, as would have afforded sufficient incidental protection to our leading branches of manufacture, and proved satisfactory to the whole country. I was prepared to go as far as I possibly could, to satisfy the wishes of my friends in the South; and I believed that they were also desirous of meeting me half way, and compromising this vexed question. I was disposed to yield much, believing that less incidental protection would be sufficient for the manufacturers, when they knew it was to be permanent. This spirit of conciliation was that which gave birth to our institutions, and this alone can preserve them. In such a spirit, I advised a valued friend in the House [Mr. Ingersoll] to introduce a bill restoring the duties as they stood in 1839. This bill would have scarcely produced sufficient revenue to supply the wants of the treasury; and it would have reduced all the duties under the act of 1832 in equal proportion. I regretted to find that this measure of conciliation received no support from my Southern political friends, with whom it has ever been my pride and pleasure to act in harmony. Even a proposition to restore the duties to what they were in 1840 met with a similar fate. And such was my anxiety to manifest my friendly disposition on the subject, that I would have voted on yesterday for a similar proposition introduced by the Senator from Virginia, [Mr. Rives,] although I knew it then came too late, had it not contained the (to me) odious tax upon tea and coffee. If the present extravagant bill should be forced upon the country, I feel conscious that I have done everything that I could to avert it, in the only manner possible—by most earnestly and sincerely endeavoring to unite our political friends in favor of a moderate and conciliatory measure. I would upon the present, as upon almost every other occasion, have acted upon the principles of General Jackson, a man nearly as much distinguished

for sagacity and statesmanship as for his courage and conduct on the field of battle. That illustrious old man, having the subject of the review and reduction of the tariff of 1832 distinctly in view, uses the following language, in his annual message of December in that year:

> The soundest maxims of public policy, and the principles upon which our republican institutions are founded, recommend a proper adaptation of the revenue to the expenditure; and they also require that the expenditure shall be limited to what, by an economical administration, shall be consistent with the simplicity of the Government, and necessary to an efficient public service. In effecting this adjustment, it is due, in justice to the interests of the different States, and even to the preservation of the Union itself, that the protection afforded by existing laws to any branches of the national industry should not exceed what may be necessary *to counteract the regulations of foreign nations, and to secure a supply of those articles of manufacture essential to the national independence and safety in time of war.*

In several of his previous messages to Congress, he avows similar principles, in terms still stronger; and in one of them he cites the authority of Jefferson, Madison, and Monroe, in their support. This is my creed upon the subject of the tariff, and I am both willing and anxious to carry it out fairly into practice. I am willing to unite with my political friends from the North, the South, the East, and the West, in reducing the expenditures of the Government to the lowest point, consistently with the national honor and the national safety. I would not impose one dollar of duties on foreign imports beyond what may be necessary to meet such an economical expenditure. In adjusting these duties, however, I shall never abandon the principle of discrimination in favor of such branches of home industry as may be necessary "to secure a supply of those articles of manufacture essential to the national independence and safety in time of war;" and this more especially after such manufactures have already been established, at immense expense, on the faith of your laws. I would save them from sinking into ruin, by a rate of discrimination necessary to preserve them. I repeat that this is my creed; and it has always heretofore been the creed of the fathers of the Democratic church.

I admit that the measure before us goes far beyond these principles in many particulars; and yet, with all its imperfections on its head, I would rather take this bill, which will be instrumental in replenishing the treasury, and restoring prosperity to the country, than leave the Government destitute of revenue, and the great interests of the nation in their present deplorable condi-

tion. I shall accept this now, as much the least of two evils, and look forward with hope to better times for an adjustment of the tariff, on a scale more consonant with all the great and various interests of the Union, without sections. It is possible that, in arriving at this conclusion, I may have erred; but, if so, I have erred honestly. If the question were presented to my constituents, I have no doubt but that they would decide in the same manner. Indeed, judging from the numerous letters which I have received upon the subject, from pure and disinterested sources, and relying still more upon the unanimous vote of the Pennsylvania delegation in the other House, in favor of this bill, I think I should hazard little in declaring that, at the least, four-fifths of those whose will I am bound to obey, if placed in my situation, would vote for the present measure. Believing this, and ever acting upon the principle that the will of the constituent, when clearly and fairly expressed, ought to govern the conduct of the representative on all questions of mere expediency, I should be faithless to my trust if I were to vote against this bill.

Mr. B. said he had, on yesterday, voted against several substitutes proposed for the present bill, which fixed the duties at one uniform rate on all articles imported. This he had done, because he was opposed to any horizontal tariff which could be devised by the art of man. Such a tariff was all wrong in principle, and would ever prove, as it had already done in this country, ruinous in practice. He trusted that the idea of a horizontal tariff would be abandoned now and forever. A statesman, in framing a tariff of duties for this vast country, embracing as it does so many diversified and conflicting interests, even if incidental protection were out of the question, must review all these interests in their respective relations towards each other, and subject foreign productions to such varying rates of duty as will best consult the wishes and promote the welfare of all our people. This was no question to be ciphered out by the rule of three—to be solved by merely ascertaining the amount of our imports, and then imposing such a uniform ad valorem duty on the mass as would produce a sum equal to our expenditures. This had never been the practice of any nation, ancient or modern, so far as his knowledge extended;—it had certainly never been the practice of this country, until it had been adopted since the 30th of June last, under the compromise law. Each article of foreign import deserved a separate consideration, as much as if it were contained in a separate bill. The far-reaching sagacity of Gen-

eral Jackson, at an early period, foresaw what would be the effect of this horizontal scale of duties. In his celebrated message to Congress, of the 10th January, 1833, he used the following language:

> The majority of the States and of the people will certainly not consent that the protecting duties shall be wholly abrogated, never to be re-enacted at any future time, or in any possible contingency. *As little practicable is it to provide that "the same rate of duty shall be imposed upon the protected articles that shall be imposed upon the unprotected," which, moreover, would be severely oppressive to the poor, and, in time of war, would add greatly to its rigors.*

He had not the bad taste to discuss the question at length, at this late hour of the session, and whilst all were anxious to decide the fate of the present bill before our adjournment to-day. He would, therefore, merely enumerate a few of the inevitable evils and bad effects which must result from the want of any discrimination in the assessment of duties. Even the compromise law itself did not abrogate discrimination. It was true that it fixed 20 per cent. ad valorem as the maximum; but it contemplated discrimination below that rate of duty.

And, in the first place, a uniform rate of duty "would be severely oppressive to the poor," because it would impose the same ad valorem tax, in all cases, upon the luxuries and the necessaries of life,—upon the costly wines used by the rich, and upon the coarse woollen garment necessary to protect the poor from the piercing cold of the northern blast. With all his heart, therefore, had he voted for the discrimination proposed by his friend from Missouri, [Mr. Benton,] and which had formerly existed in our tariff laws, in favor of low duties upon low-priced cloths and blankets. It was both a wise and a humane policy to impose taxes upon property rather than upon labor.

In the second place, a horizontal tariff, be it high or low, would ruin all your mechanics and artisans who prepare foreign fabrics for use. You must discriminate in their favor, by imposing a higher rate of duty on the ready-made article than on the material of which it is made; or you will be supplied with coats and hats from London, and with boots and shoes from Paris. But I have already sufficiently adverted to this subject.

In the third place: in imposing a tariff of duties, you ought, as far as may be consistent with sound policy, to give incidental advantages, by discriminating duties, to the productions of one foreign nation which admits into its ports your own domestic

productions upon liberal terms, over those of another which closes its ports against your most important articles of exportation. All nations have acted more or less upon this principle. If France receives your agricultural productions on more favorable terms than England, a statesman, in imposing duties, ought to encourage the trade with France rather than with England.

In the fourth place: articles the consumption of which among the people sound policy requires you to discourage, ought to be subjected to heavier duties than those imposed upon articles the use of which ought to be encouraged. Who, for example, would think of imposing the same ad valorem rate of duty upon French brandy and upon coffee?

In the fifth place: articles of very small bulk and very great value—such as jewellery, diamonds, and other precious stones—must be charged with a low rate of duty, otherwise they will all be smuggled into the country on the persons of individuals; whilst, on the contrary, articles of great and ponderous bulk, the original cost of which is trifling, and whose chief value consists in the expense of transporting them to your markets, ought to be charged with a high rate of ad valorem duty—otherwise they will produce little or no revenue. Coal is an example of such an article. The 20 per cent. duty which it now pays, under the compromise act, amounts only to about 40 cents per ton, or less than one cent and a half per bushel; although, under the act of 1816, it was subjected to a revenue duty of five cents per bushel. Such are the effects of a horizontal tariff.

Again: in imposing duties with a view to incidental protection, discriminations ought to be made in favor of manufactures the raw material of which is a production of your own country, and more especially if it be an agricultural production. For this reason, the cotton, woollen, iron, and hemp manufacture ought to be encouraged in preference to manufactures the materials of which are derived from foreign countries. You ought to discriminate in favor of the manufacture of such articles as will render you independent in war. Indeed, I might state a thousand reasons for discrimination, which prove conclusively that the Procrustean rule of a uniform horizontal ad valorem tariff of duties can never be applied in adjusting the revenue laws of a great nation. It is for such reasons that I voted against the amendment of my friend from Arkansas [Mr. Sevier] proposing a horizontal duty of 25 per cent.; although I firmly believe that a tariff might be easily adjusted, with proper discriminations,

which would yield sufficient revenue to the treasury, and afford sufficient incidental protection to manufactures, without exceeding that average rate.

But I am not only opposed to any uniform scale of ad valorem duties, but to any and all ad valorem duties whatever, except in cases where, from the nature of the article imported, it is not possible to subject it to a specific duty. Our own severe experience has taught us a lesson on this subject, which we ought not soon to forget. I cannot refrain from briefly adverting to some of my reasons for this opinion.

Our ad valorem system has produced great frauds upon the revenue, whilst it has driven the regular American merchant from the business of importing, and placed it almost exclusively in the hands of the agents of British manufacturers. The American importer produces his invoice to the collector, containing the actual price at which his imports were purchased abroad, and he pays the fair and regular duty upon this invoice. Not so the British agent. The foreign manufacturer, in his invoice, reduces the price of the articles which he intends to import into our country to the lowest possible standard which he thinks will enable them to pass through the custom-house without being seized for fraud; and the business has been hitherto managed with so much ingenuity as generally to escape detection. The consequence is, that the British agent passes the goods of his employer through the custom-house on the payment of a much lower duty than the fair American merchant is compelled to pay. In this manner he is undersold in the market by the foreigner; and thus is driven from the competition, whilst the public revenue is fraudulently reduced.

Again: ad valorem duties deprive the American manufacturer of nearly all the benefits of incidental protection when it is most required. When the business of the country is depressed, as it is at present, and when the price of foreign articles sinks to far less than their cost, your duty sinks in the same proportion, and you are also deprived of revenue at the time when it is most needed.

Our own experience, therefore, ought to have convinced us that, whenever it is possible, from the nature of the article, we ought to substitute specific for ad valorem duties. These continue to be the same upon the same articles, notwithstanding the constant fluctuations in prices. They afford a steady revenue to the country, and an equally steady incidental protection. When

commodities are usually sold by weight or by measure, you may always subject them to a specific duty; and this ought always to be done.

Let us, then, abandon the idea of a uniform horizontal scale of ad valorem duties; and, whether the duties be high or low, let us return to the ancient practice of the Government. Let us adopt wise discriminations; and, whenever this can be done, impose specific duties.

Then, sir, after maturely weighing all the arguments both for and against the present bill;—after, on the one side, considering the strong objections to it, and, on the other, contemplating the miserable, the distressed, and the hopeless condition of the people of this country, and the still more miserable, distressed, and hopeless condition of the public credit, in case this bill should not pass,—I have determined that my vote shall not prevent it from becoming a law.

REMARKS, AUGUST 31, 1842,

ON UNADVISED LEGISLATION.[1]

On motion of Mr. Preston, the House bill for the relief of the heirs of Major General Baron De Kalb, deceased, was taken up as in committee of the whole.

Mr. Preston advocated the passage of the bill; which he said had received the unanimous approbation of the committee of the House which reported it.

Mr. Phelps remarked that the Committee on Revolutionary Claims, though they did not make a report against the bill, were opposed to its passage. They did not presume that, at this late hour of the session, an effort would be made to pass it. He was opposed to its passage.

Mr. Buchanan said it had been his good or bad fortune to be present at the close of many sessions of Congress; and he would venture to assert, that if the catalogue of bad bills were presented to the inspection of the Senate, it would be found that at least two-thirds of those which belonged to that class would be found to have been passed within the last three days of each session. The bill which abolished the noble navy pension fund passed on the last night of one session; and other bills of a

[1] Cong. Globe, 27 Cong. 2 Sess. XI. 976–977.

similar character passed in the same manner. He had, therefore, felt it his duty to be present at the closing scene of each session of Congress, and to protest against the passage of any bill, except its justice and propriety were clear and manifest. At any period of the session he would not vote for so stale a claim as this, unless it were clearly shown that the agent prosecuting the claim had a proper title, or unless he knew that the benefit would reach the pockets of those for whom it was intended. He therefore, under the circumstances, moved to lay the bill on the table.

The question was put, and the motion was agreed to.

FROM MR. DALLAS ET AL.[1]

PHILADELPHIA, Nov. 2d, 1842.

TO THE HON. JAMES BUCHANAN:

DEAR SIR: It would give great pleasure to a large number of your fellow citizens in the city and county of Philadelphia, if an opportunity were afforded of paying their respects in person to one whom they regard not only as a distinguished son of Pennsylvania, but as among the ablest champions of Democratic measures in the councils of the nation. If, therefore, your convenience will admit of it, we shall derive much satisfaction from your consent to meet your Democratic friends, at a public entertainment in this city, at such time as may be most agreeable to yourself. For many years, we have carefully observed your course as a public servant, and have always found you the unswerving and able advocate of equal rights and of the true principles of republican institutions; as firm and uncompromising in the hour of danger as in the day of success and prosperity; and, though the token of consideration now offered can add nothing to your deserved fame, yet to us it will be a source of the highest gratification to be thus enabled to exchange personal greetings with one whose labors as a statesman and whose conduct as a patriot, combined with his private worth, reflect honor upon our common country.

With sentiments of the greatest respect,

We remain

Yours, &c.

G. M. DALLAS,	C. J. INGERSOLL,
H. D. GILPIN,	PAUL K. HUBBS,
JAMES PAGE,	DANIEL M. KEIM,
CHARLES BROWN,	BENJAMIN H. BREWSTER,
RICHARD RUSH,	JOHN G. BRENNER,
BENJAMIN MIFFLIN,	WILLIAM BONSALL,
J. K. KANE,	WILLIAM J. LEIPER,
HENRY HORN,	HENRY D. LENTZ,

[1] Reprinted from the *Pennsylvanian*, Nov. 5, 1842.

John M. Read,
T. M. Pettit,
Joseph C. Neal,
George Plitt,
William V. Pettit,
John Miles,
Geo. H. Martin,
R. B. Dodson,
J. Murray Rush,
W. Sayre Heysham,
John Hentz,
Andrew Flick,
Edward Hurst,
O. F. Johnson,
John J. McCahen,
J. H. Hutchison,
Richard Vaux,
John Painter,
B. Crispin,
James Goodman,
T. B. Florence,
T. B. Town,
Joshua Andrews,
Joseph A. Dean,
Michael W. Ash,
Peter A. Grotjan,
Miles N. Carpenter,
Samuel Heintzelman,
Thomas J. Heston,
Wm. D. Kelley,
William A. Porter,
Francis Lyons,
Richard Bacon,
Robert F. Christy,
J. Jacob Notter,
George W. Page,
Benjamin E. Carpenter,
John H. Dohnert,
John Fegan,
E. A. Penniman,
John Robbins, Jr.,
Andrew Miller,
John C. Smith.

TO MR. DALLAS ET AL.[1]

Merchants' Hotel, Nov. 3rd, 1842.

Gentlemen—

I have had the honor of receiving your kind invitation to meet my Democratic friends of the city and county of Philadelphia, at a public entertainment at such time as may be most agreeable to myself. Proceeding as this invitation does, from Democrats who combine as much ability and worth as can be found among the same number of individuals in any community, I shall ever prize it as a most distinguished honor. To be assured by such men, that my public conduct, as well in the hour of adversity as in the day of prosperity, has been sanctioned by their approbation, is a testimonial of which any man might be justly proud.

Whilst circumstances, which it would be tedious to explain, will prevent me from accepting your invitation, I should eagerly embrace any opportunity of extending my personal acquaintance among the ever firm and ever faithful Democracy of the city

[1] From the *Pennsylvanian*, Nov. 5, 1842.

and county. Will you then pardon me for suggesting, that without the formality of a public entertainment, I might be permitted to enjoy the pleasure of meeting such of my political friends as may do me the honor of paying me a visit, at any time and place which you may designate? This meeting might be held during the present week, or it might be postponed, which I should prefer, until the week before the meeting of Congress.

With sentiments of the warmest regard,

I remain your friend,

JAMES BUCHANAN.

GEO. M. DALLAS, C. J. INGERSOLL, H. D. GILPIN, JAMES PAGE, CHARLES BROWN, and others.

REMARKS, DECEMBER 22, 1842,

ON GENERAL JACKSON'S FINE.[1]

The bill introduced by Mr. Linn, to indemnify General Jackson for the fine imposed on him at New Orleans while in the discharge of his official duty, came up for consideration, as in committee of the whole; and there being no motion to amend, it was reported to the Senate.

* * * * * * * * * *

Mr. Buchanan had but a few words to say on this subject. The Senator from Delaware [Mr. Bayard] had been discharging his heavy artillery against nothing. He had not even a target to aim at. It had never been contended on this floor that a military commander possessed the power, under the Constitution of the United States, to declare martial law. No such principle had ever been asserted on this (the Democratic) side of the House. He had been induced to make this disclaimer in consequence of an attack which had been made upon him, in a well-written pamphlet signed "A Kentuckian," for having advocated such a doctrine, in conjunction, strangely enough, with the Senator from Georgia [Mr. Berrien] and a distinguished member of the other House, [Mr. Adams.] He did not know who might be the author of this pamphlet; but he must express his surprise how any

[1] Cong. Globe, 27 Cong. 3 Sess. XII., Appendix, 67, 69.

candid man, who had read his remarks at the last session of Congress on the subject of the remission of General Jackson's fine, could have fallen into such an error. He had then expressly declared (and the published report of the debate, which he had recently examined, would justify him in this assertion) that we did not contend, strictly speaking, that General Jackson had any constitutional right to declare martial law at New Orleans; but that, as this exercise of power was the only means of saving the city from capture by the enemy, he stood amply justified before his country for the act. We placed the argument, not upon the ground of strict constitutional right, but of such an overruling necessity as left General Jackson no alternative but the establishment of martial law, or the sacrifice of New Orleans to the rapine and lust of the British soldiery. On this ground Mr. B. had planted himself firmly at the last session of Congress; and here he intended to remain.

In the history of every nation at war, cases might occur of such extreme and overpowering necessity that, in order to save the country, a military commander might be compelled to resort to the establishment of martial law. Emergencies might exist, in which he would be guilty of culpable negligence, if he refused to adopt this expedient. This was eminently the position of General Jackson at New Orleans. If knowing, as he did, that a traitorous correspondence was carried on with the enemy, and that no other means of arresting it existed, he would justly have exposed himself to the severest censure, had he suffered the city to be sacked, rather than save it by declaring martial law. But, in every such case, the commanding general acted upon his own responsibility, and at his own peril, and must afterwards appeal to his country for his justification. To that country he had made his appeal, and it had nobly justified his conduct. It was an act of the most heroic patriotism—of the sternest duty. Most fortunate had it been for us, that a man commanded in that city who never shrunk from personal responsibility when his country was in danger.

General Jackson's situation at New Orleans presented the case *par excellence* for such an exercise of power. If we were to search the history of the world for examples—if imagination were permitted to take the widest range, we could not present, or even fancy, a case more strongly justifying, in every particular, the declaration of martial law, than that which existed at New Orleans. All the attendant circumstances are now matters of

authentic history. General Jackson was sent to defend our great Western commercial city against the British forces. He was almost destitute of regular soldiers. A few thousand raw militia, suddenly brought together, constituted nearly his whole army. All that he had to rely upon was their native but undisciplined courage. He had to organize them, to discipline them, to infuse into them his own indomitable spirit, and then to lead them to battle and to victory.

And what was the condition and character of the enemy against whom he had to contend? The British General commanded a numerous and well-provided army of regulars, in a perfect state of discipline, and flushed with victory over the conquerors of Europe. Such were the fearful odds against General Jackson! We can all remember that, for a time, despair sat on almost every countenance; and we have been informed that when the news of the victory reached Congress, there was such a burst of enthusiastic joy as had never been witnessed before in these halls. This was the effusion of patriotic hearts upon the delivery of their country from fearful and impending danger.

By what means did the General achieve this great and glorious victory?

Louisiana had been a Spanish province but a few years before. Its ancient inhabitants had not become warmly attached to our Constitution and laws, as they are at present. Besides, there were many discontented foreigners within the city of New Orleans. Whilst a very large majority of the inhabitants displayed their patriotism and their courage on the field of battle, the city harbored within its bosom a number of traitors, who were in correspondence with the enemy. The General's weakness and his plan of defence were in this manner communicated to the British commander, who was thus instructed in the best mode of attack.

General Jackson was thus placed in a position of awful responsibility. On the one hand, he was aware that the letter of the Constitution conferred upon him no authority to declare martial law; whilst, on the other, he knew that the establishment of martial law was the only human means of arresting this traitorous correspondence with the enemy, and saving the city. Before this act was performed, he had consulted the leading inhabitants of New Orleans, who entirely approved the measure.

Suppose General Jackson had refused to establish martial law, and the city had been captured; how could he then have

justified his conduct to his country? Could he have said, "I knew there was a band of traitors within the city, who were in correspondence with the enemy; I knew that, in this manner, all my plans for its defence would be defeated; I knew that, by declaring martial law, the city could have been saved: I knew all this, but such was my reverence for the letter of the Constitution, that, rather than violate it, I determined that New Orleans should be surrendered to the possession and pillage of the enemy. I would not, even for a few days, restrain the constitutional liberty of the citizens, even to secure the permanent salvation of the city"?

No, sir, no. Excusable is not the word. General Jackson stands justified—amply justified—in the judgment of his whole country, for his conduct. This is no party question; at least, so far as I am acquainted with the feelings of the people. Posterity has already decided the question, because more than a quarter of a century has elapsed since the event. The passage of this bill, therefore, is only important as it will embody public sentiment, and place upon the records of the nation the vindication of their General.

Mr. B. had confidently hoped that, in this era of good feeling, the bill might have been permitted to pass without a word of comment. It was destined to pass; it would pass; it must pass, and that at no distant day. This act of justice towards General Jackson would as certainly be performed as that the American people were grateful to their distinguished benefactor. Then why delay it? Let the healing balm of our approbation go home to him whilst he was yet in the land of the living. Mr. B. strongly appealed to his patriotic and gallant political enemies in the Senate to suffer the bill to pass without further delay.

1843.

REMARKS, JANUARY 20 AND 23, 1843,

ON THE PETERSBURG RAILROAD COMPANY.[1]

[Jan. 20.] On motion by Mr. Evans, the bill for the benefit of the Petersburg Railroad Company was taken up on its third reading.

Mr. Buchanan observed that this was a very important bill, and, as the Senate was very thin, he hoped it would be laid over.

Mr. Evans said there was so little time between this and the 3d of March, that there was good reason to fear, if the bill was not passed to-day, it could not be acted upon in time.

Mr. Buchanan said he was sorry to be obliged, at so late an hour, to trespass upon the patience of the Senate, but he was desirous of stating his views upon this subject. And, at the very commencement of the debate, (for the bill was not going to pass *sub silentio,*) he must be permitted to state, that he did not believe that any other than an incorporated company would have made the request contained in the memorial upon which this bill was founded. He had no prejudice against incorporated companies; but he thought, when they reviewed the history of this railroad-exemption question, they would have every reason for believing that the question ought to be allowed to rest, at least, until a general revision of the tariff.

Under the act of May, 1830, privileges were conferred upon the railroad companies which were not enjoyed by individuals. The farmer, who tills the soil—the merchant, who builds ships to navigate the ocean,—all were obliged to pay a duty upon the iron which they used in their respective employments; but the railroad company having petitioned Congress, got an act passed to reduce the duty for their special benefit, from the rate paid by all other classes of citizens, down to 25 per cent. And not content with this, two years afterwards they petitioned Congress again, and were relieved from the payment of all duties whatever. And it was an astonishing fact, that this railroad company, (if he understood the matter correctly,) had got a remission from Government of duties to the amount of upwards of $83,000. Releasing the duties upon their iron to that amount, was precisely equal to bestowing upon them that sum after it had been collected and placed in the treasury.

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[1] Cong. Globe, 27 Cong. 3 Sess. XII. 181–182, 187.

Let us examine this matter a little further. At the extra session in 1841, the question arose, whether railroad iron should be taxed as all other iron. And the Senator from Connecticut proposed to allow the railroad companies an extension of the privilege of importing their iron free of duty until the 3d of March, 1843; making a period of eighteen months. He, (Mr. B.,) with that good nature which he trusted had always characterized him, agreed that the time should be extended. And now what was it that they proposed to do by this bill? It was proposed that all the railroad iron which might be in the country, under the compromise that was made upon that subject, at the extra session, between the Senator from Georgia and himself, may be laid down hereafter; thus repealing the principle which was laid down in 1841 and in 1842. What was that principle? He observed that a bill had been reported by the Committee of Ways and Means in the other House, giving to all the railroad iron that may be laid down previous to the 3d of March, 1843, the privilege of drawback of all the duties. What reason was there for exempting these corporations from the payment of duties which all other classes of citizens were obliged to pay? It was never intended, according to the construction of the original law, to establish the principle that any railroad company should be permitted the opportunity of introducing two sets of rails without duty. The old iron, when taken up, would sell for more than was originally paid for it by them. Now, under what specious garb did this entering wedge present itself? They were told that all the railroad iron had been imported, and that they could comply with the law, and lay it all down previous to the 3d of March; but that it would be inconvenient to do so. He (Mr. B.) knew enough about the construction of railroads, to know that it was the simplest thing in the world to lay down the iron, after preparation had been made to receive it; and the sooner it was laid down after the road was prepared for it, the better. As to stopping the travelling, he had seen new rails laid down when the cars were passing twice every day. All they had to do was to connect the old with the new rails. It was one of the plainest mechanical operations in the world.

He was anxious to see what would be the result of the present application. He had agreed, in good faith, to extend the law of 1841 until the 3d of March, 1843. The company had had eighteen months in which to complete their work; and they now

came forward and said they wanted six months longer. It amounted, in fact, to a repeal of the duties on all railroad iron.

He would now give the Senate a small particle of information upon this subject of exemption. In consequence of the law which they had passed, placing a duty upon iron, two very large establishments had been created in Pennsylvania for the purpose of manufacturing railroad iron. One of them, called the Great Western Iron Works, had been established with New England capital, and was situated upon the Alleghany river. The company had contracted with Governor Morrow, as president of the Little Miami Railroad Company, for the delivery at Cincinnati of three hundred tons of railroad iron, at $50 per ton; and it had been delivered, according to contract, and was of an excellent quality. He had been informed that these iron works could, at the present moment, manufacture 100 tons of railroad iron per week, and that they were now engaged in making a quantity of such iron, either for the State of Indiana, or a company within it—he had not learned which. And now, at the very time when this company was manufacturing railroad iron—not only to the extent of the demand within the State of Pennsylvania, but also furnishing the State of Indiana—they were applied to, again, to suspend the duty upon that article, thus holding out to Pennsylvania a promise to the hope, and breaking it to the reality: first, placing a duty upon iron by the tariff bill, and then, by exceptions subsequently made, defeating their former act. And for whose benefit? For the benefit of incorporated companies. It was (as he said before) the entering wedge against the common right of the citizens of the United States.

He declared most solemnly that he would rather, at this moment, vote for a drawback on iron employed in the building of ships, than to vote for this bill for the exclusive benefit of railroad companies, who were not subject to foreign competition at all. He thought the question had been settled. He had yielded to the former urgent demands made by associated wealth upon Congress, through a spirit of compromise and conciliation. Now the demands were repeated; and they might rest fully assured that those companies would never be satisfied, as long as they continued to exist, with the ordinary privilege of citizens.

As regarded this company, he was glad to hear that they could lay down their rails before the 3d of March, and he thought they should be limited to that time. He had no doubt, however, that this bill would pass the Senate; but he did not think it

would go through the House of Representatives at so galloping a rate. He had never heard of the bill until yesterday; and now it appeared everything else must be suspended, in order to hurry it through. He was aware of the power of moneyed corporations, and that those gentlemen who had presented their petitions would remit no efforts to secure the passage of the bill; and he should look with considerable interest upon the result. He was anxious to know whether the benefits of the tariff bill, which passed both Houses by the votes of Pennsylvania members, were now to be withdrawn by special legislation.

He would add nothing farther; there were other gentlemen in that body as deeply interested in this question as he himself was; he would leave to them the discussion of the question. But he wanted to see what would be the fate of the bill, for it would be, as sure as that he was now speaking, but the entering wedge to the complete destruction of the benefits of the tariff law, so far as the State of Pennsylvania was concerned.

[Jan. 23.] Mr. Buchanan said he believed this to be a bill of great importance, and calculated, in its effects, to repeal the policy of the late tariff law, in reference to a single article, without a modification of the whole of it. He wished to present to the Senate his views upon this subject, and he would do it as briefly as possible. He had no interest in this bill, which was not common to every Senator. His honorable friend was mistaken if he supposed that he argued that, because there were one or two establishments for the making of railroad iron in Pennsylvania, that was a reason for the rejection of this bill. He had stated the fact merely for the information of the Senate, and for no other purpose. Still, it was important information, and well worthy the attention of the country. The Senator said he (Mr. Buchanan) was well acquainted with the Horatian rule. He presumed the rule the Senator referred to was, that he never asked the interposition of the gods, unless in a difficulty otherwise insuperable. But if he should succeed in representing to the Senate his ideas upon this subject, he thought the Senator would agree with him that there was no insuperable difficulty in the case.

It appeared to him a perfectly plain case; and notwithstanding the Senator from South Carolina thought it was unworthy of argument, he doubted whether he would be able to succeed in refuting even the feeble arguments which he would be able to present. He asserted that corporations had great power in this country. They were never satisfied. One decision against them

might follow another; and they were always ready, like the heads of the hydra, to spring up to new life, and persist in urging their claims upon Congress. If ever a question had been settled on broad, and liberal, and just principles, he contended it was this question, so far as corporations were concerned. Let them look at this case, and they would see the respectable Committee on Finance reporting a bill, without a line accompanying that report, for the benefit of a corporation.

If a poor old soldier applied for a pension, the question was, in every instance, referred to a committee; and the case was presented to the Senate in an ample and full report. The Senate could not tell now how much iron was to be laid down; they could not even tell the length of the road that was to be relaid, or how much had already been laid down; they could not tell whether they were to release to the company the payment of $50,000 or $500. They had the naked statement of the company, which conveyed no authentic information on the subject.

Mr. B. proceeded to review the history of the legislative enactments in reference to this company, and argued that the exclusive privileges granted to it had already occasioned the tax upon the community to be increased to a very great extent. And now the question was, whether a second exemption from the payment of duties, to which all other citizens were subject, should be extended to this railroad company; for so far from its being a mere extension of the time for laying down the iron, it would in reality be a further release of duties. He was far from being an enemy to corporations whose purposes, objects, and views were for the public advantage. He was far from being an enemy to railroad corporations; he believed they had been of much service to the country. But as to the influence exerted by corporations, it was plainly visible. The Oregon Territory bill was laid aside, the question involving peace or war was laid aside, in order that this measure should pass, and that the railroad company should be put to no inconvenience. When he asserted that corporations had influence, he was borne out by the facts before them. Did they not see respectable men associated together in the form of a company, having an object to accomplish, bringing respectable men from Virginia to advocate and support their interests? They could, and did, urge their claims with more impunity, and with greater pertinacity, and with better success, than individual citizens. He did think, when he had consented in 1841 and 1842 to yield to their demands, that we should have heard no

more of railroad companies' exemptions from the common burdens borne by the citizens of this country. If they should succeed in passing this bill, it would be, as he said before, but the entering wedge, so far as regards Pennsylvania and Kentucky and the other iron producing States. Whether the tariff be right or wrong, (and he was not going to discuss that question)—whether the principle of protection be of benefit or not—it was a general enactment, designed to have a general application; and he regarded it as highly improper and inexpedient to fritter away that law by special legislation.[1]

TO MR. CRISPIN ET AL.[2]

WASHINGTON 2 February 1843.

GENTLEMEN/

Your letter of congratulation on my recent re-election to the Senate of the United States has inspired me with feelings of profound gratitude. To have been thrice elected to this eminent station by the Democratic Senators & Representatives of my native State is an honor which ought to satisfy the ambition of any man: and its value is greatly enhanced by your assurance that in selecting me for another term, you but acted in accordance with the united voice of the Democratic party of Pennsylvania. So highly do I prize their good opinion that I can declare, with heart-felt sincerity, I would not forfeit this for all the political honors which my country could bestow. Their unsolicited & continued support has conferred upon me whatever of distinction in public life I may enjoy; and if it were possible for me now to desert their principles, I should feel that I deserved a traitor's doom. Instead of being elated, I am humbled by the consciousness of how little I have ever done to merit all their unexampled kindness.

Of all the political parties which have ever existed the Demo-

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[1] The debate was continued by Messrs. Archer and Evans in support of the bill, and by Messrs. Buchanan and Phelps in opposition.

The question was then taken on the passage of the bill, and it was passed—yeas 20, nays 19, Mr. Buchanan voting in the negative.

[2] Buchanan Papers, Historical Society of Pennsylvania; Curtis's Buchanan, I. 516.

cratic party are the most indulgent & confiding masters. All they demand of any public servant is honestly & faithfully to represent their principles in the station where they have placed him; and this I feel proudly conscious that I have done in the Senate of the United States, according to my best ability. I can, therefore, offer you no pledge for my future conduct except the guarantee of the past.

You have been further pleased to say that as Pennsylvanians you desire to see me "elevated to the highest office in the gift of the people" & you tender me "to the Union as Pennsylvania's favorite candidate for the next Presidency." I can solemnly declare that I was wholly unprepared for such an annunciation from the Democratic members of the Legislature, having never received the slightest intimation of their intention until after their letter had been actually signed.

Both principle and a becoming sense of the merit of others have hitherto prevented me from taking any, even the least part, in promoting my own elevation to the Presidency. I have no ambitious longings to gratify, conscious as I am that I have already received more of the offices & honors of my Country than I have ever deserved. If I know my own heart, I should most freely resign any pretensions which the partiality of friends has set up for me, if by this I could purchase harmony & unanimity in the selection of a Democratic candidate. Besides, however proper it may be that candidates for inferior offices should make personal efforts to secure success; I am deeply convinced that the highest office under Heaven ought to be the voluntary gift of the only free people upon earth. No man can justly claim it from the people as a matter of right. It ought to be their own spontaneous gift to the most worthy; and this alone can render it the crowning glory of a well spent public life. This alone can prevent the danger to our institutions which must result from the violent struggles of personal & interested partizans. The principles of the man whom the people may thus delight to honor, ought to have borne the test of long & severe service and ought to stand out in such bold relief before his Country as to place all doubt in regard to them at defiance. In my opinion, the candidate who would either intrigue or personally electioneer for the Presidency raises a strong presumption that he is unworthy of it. Whether it be probable that a man resolved, under the blessing of Providence, to act upon these principles, will ever reach the Presidency, you can judge better than myself. I ought, however, in justice

to myself to observe, that whilst this is my fixed purpose, I do not feel the less grateful to those kind & partial friends who have deemed me worthy of the highest office, because I have never attempted to enlist them in my support.

With these views plainly presented before the Democracy of Pennsylvania, if they should resolve to offer my name to the National Convention as a candidate for the Presidency, with that degree of unanimity which can alone give moral force to their recommendation, I feel that I ought not to counteract their wishes. Should they determine differently, this will not be to me a cause of the slightest mortification.

One remark I am impelled to make before closing this letter. The principles & the success of the party so immeasurably transcend in importance the elevation of any individual that they ought not to be jeoparded, in the slightest degree, by personal partiality for either of the candidates. Every candidate who has been named, and hundreds of individuals whose names have never been mentioned, would ably & faithfully administer the Government according to these principles. No good Democrat, therefore, ought to suffer his feelings to become so enlisted in favor of any one candidate, that he could not yield his cheerful & cordial support to any other who may be nominated by the National Convention.

With sentiments of grateful regard, I remain yours sincerely

JAMES BUCHANAN.

B. CRISPIN, & H. B. WRIGHT ESQUIRE & other members of the Democratic party in the Legislature of Pennsylvania.

REMARKS, FEBRUARY 9, 1843,

ON THE INSPECTION OF WATER-ROTTED HEMP.[1]

At Mr. Crittenden's request, the joint resolution from the House, providing for the establishment of two agencies for the inspection and purchase of water-rotted hemp in the States of Kentucky and Missouri, for the use of the navy of the United States, was resumed as in committee of the whole; and, there being no proposition to amend, it was reported to the Senate.

[1] Cong. Globe, 27 Cong. 3 Sess. XII. 262, 263.

Mr. Buchanan said he thought his honorable friend from Alabama saw terrible consequences arising from the adoption of this resolution, which existed only in his own exuberant fancy. The fable of the woodman and the forest might be pushed a good deal too far; it might be used against the felling of a single tree, for the purpose of making a fire, or for the ordinary purposes of domestic economy. He thought it was so in this case. He certainly would not disturb what (according to the Senator from New Hampshire) were the well-settled principles and practice of procuring materials for the navy. Far from it. If there were peculiar cases, however, requiring peculiar exceptions, he would not omit acting upon these cases, because ingenuity might raise an argument out of it, that it would be an entering wedge for the purpose of prostrating the system. What was the present case? It might be stated in a few words. He himself had, a great many years ago, had his attention turned to the subject of water-rotting hemp. It was introduced among the farmers of the county where he resided; and it was the specimen first produced in that county which impressed the Navy Board with the belief that American water-rotted hemp was equal to the foreign article; but such was believed to be the unhealthiness of the process of water-rotting, that the farmers were induced to abandon it. Of late, an impulse has been given to it by a gentleman in the West, who deserves great credit for the efforts he has made.

What did the bill propose? Anything novel? Anything out of the way? Not at all. It proposed simply the appointment of such agents in Missouri and Kentucky as you have at Boston, and at other places, for the purchase of water-rotted hemp for the Government. There was no question of tariff in this, no question about the encouragement of domestic productions. He would vote with much pleasure for the proviso of the gentleman from Alabama. He agreed that we should not pay more for the article than the foreign article would cost. But, in the infancy of the production of the article, our farmers were liable to be imposed upon. Why not, then, send an agent near the place where the article was produced, if it will encourage its growth in this country? Was there any Senator who did not desire that we should have a supply of necessary articles for the navy, if it could be purchased upon as cheap terms as the foreign article? Unless this could be done, it ought not to be purchased from the farmers of Missouri, Kentucky, or any other State. It was a

very different thing from the purchase of beef, pork, iron, and the various productions of this country, the manufacture of which was well understood. It was an article of a peculiar character, prepared in a peculiar manner, and until the planters of the West got in the habit of producing it, it would be highly proper to afford them every facility; but he would not extend to them any peculiar advantages. If they produce the article at all, they should produce it at as cheap a rate as the foreign article could be obtained. He would vote most cheerfully in favor of the resolution.

REMARKS, FEBRUARY 10, 1843,

ON AN APPROPRIATION FOR METEOROLOGICAL OBSERVATIONS.[1]

A debate took place on an amendment to the army appropriation bill, appropriating $2,000 for continuing meteorological observations at military posts under the direction of the Surgeon General.

Mr. Buchanan observed that, in what he had to say upon this subject, he certainly did not mean to make any insinuation against the Surgeon General. He had the pleasure of an acquaintance with that gentleman; and he believed a more worthy and respectable man did not exist. Mr. Espy, like all others who had made discoveries of any importance, had been assailed by ridicule; and probably the zeal which enabled men to make important discoveries always carried them beyond the bounds of prudence. This had been Mr. Espy's fate in the beginning; but his mind was now matured. And he (Mr. B.) believed, with the Senator from Mississippi, that in his particular branch of science he was exceeded by no man living; such was the opinion entertained of him by the most enlightened foreigners.

The great objection seemed to be that, by the adoption of this amendment, a new bureau would be created. But would this be the case? What facts had they before them to warrant such an inference? Directly the reverse seemed to be the case. Mr. Espy was to be attached to the office of the Surgeon General. He was to act under his authority and direction, and to receive, as compensation, $2,000 per annum. Would that be the establishment of a new bureau, any more than the appointment of an

[1] Cong. Globe, 27 Cong. 3 Sess. XII. 268.

additional clerk in any department of the Government? He could not see by what possibility a new bureau was to grow out of it.

But what was the object of the proposition? He desired to bring it distinctly before the Senate. In August, 1832, an appropriation was made (of which he had no knowledge at the time) for procuring meteorological observations, under the direction of the Surgeon General, who appointed Mr. Espy to the performance of that duty; and, after he had been most advantageously engaged upon it for a great length of time, it was now proposed to cut him down by legislation. Did it not seem very invidious to aim at that gentleman, and him alone? Had he done anything to merit such treatment? If it were deemed proper to make these observations at all, at the different military posts, there ought to be some gentleman of scientific acquirements to generalize them; for the mere naked observations would be of little avail.

The Senator from Missouri [Mr. Linn] had just put into his hands a book, which showed the estimation in which Mr. Espy was held by the most scientific body in the world—he meant the French Institution of Natural Science.

Mr. Buchanan, having read a passage from the work referred to, remarked, that the case could be summed up in few words. Congress had already, by a law, made an appropriation for the purpose of employing such an agent as Mr. Espy, and he had been employed, not as the head of a bureau, but as a subordinate in the office of the Surgeon General, where he had rendered eminent service to the cause of science; and the question was now, whether they would, by refusing to adopt this proposition, drive that gentleman from the pursuit in which he had been engaged, so much to the advantage of the military and the naval service, and to the enlightenment of all mankind. For his own part, he could not conscientiously do that, by legislation, which would operate as a sort of personal attack upon this gentleman, whom he believed to be better qualified than any other man for this important service.

The debate was continued by Messrs. Walker, Calhoun, Benton, Tappan, and Evans; and then the question was taken on the amendment, and decided in the affirmative—yeas 28, nays 13.

The other amendments were also adopted.

TO MR. BROWN ET AL.[1]

WASHINGTON CITY, Feb. 11, 1843.

GENTLEMEN: I have had the honor of receiving your communication in behalf of the late democratic convention of the state of Indiana; and in obedience to their request, I shall now proceed to answer the interrogatories which you have propounded to me by their direction. In performing this duty, I think I shall best consult the wishes of the members of that convention by employing, as far as I can, the clear and explicit language of the interrogatories themselves, not deeming it necessary to enlarge upon subjects the consideration and discussion of which have occupied a considerable portion of my public life. Instead, therefore, of troubling you with reasons in detail for my opinion on the bank, the distribution, and the veto questions, I shall have the honor of transmitting to you speeches delivered by me on these subjects in the senate of the United States, during the present congress.

In the first place, then, I am "opposed to the chartering of a National Bank, or any other institution, by whatever name it may be called, authorised to issue bills of credit for banking purposes, or to regulate exchanges," believing any such institution to be both unconstitutional and highly inexpedient.

2. I am "opposed to the distribution of the proceeds of the public lands among the several states of the union."

3. If, by a protective tariff, you mean the levying of any higher tax upon imports than may be necessary to secure sufficient revenue for the purpose of sustaining an economical administration of government, then I am opposed to any such tariff. On this subject, I cannot better present to you my views than by copying a few sentences from my remarks, made in the senate of the United States on the 27th August last, on the tariff bill. They are as follows:

> I would, upon the present, as upon every other occasion, have acted upon the principles of Gen. Jackson, a man nearly as much distinguished for sagacity and statesmanship as for his courage and conduct on the field of battle. That illustrious old man, having the review and reduction of the

[1] Niles' Register, May 13, 1843. This letter was one of several written by Democratic public men in reply to interrogatories addressed to them by the Democratic State Convention of Indiana, held at Indianapolis on the 8th of January, 1843. Mr. Buchanan's letter was reprinted in Niles' Register from the Indiana *State Journal*.

tariff of 1832 distinctly in view, uses the following language in his annual message of December of that year: "The soundest maxims of public policy, and the principles upon which our institutions are founded, recommend a proper adaptation of the revenue to the expenditure; and they also require that the expenditure shall be limited to what, by an economical administration, shall be consistent with the simplicity of the government, and necessary to an efficient public service. In effecting this adjustment, it is due, in justice to the interests of the different states, and even to the preservation of the Union itself, that the protection afforded by existing laws to any branches of national industry shall not exceed what may be necessary to counteract the regulations of foreign nations, and to secure a supply of those articles of manufacture essential to the national independence and safety in time of war." In several of his previous messages to Congress, he avows similar principles, in terms still stronger; and in one of them he cites the authority of Jefferson, Madison, and Monroe, in their support. This is my creed upon the subject of the tariff, and I am both anxious and willing to carry it out in practice. I am willing to unite with my political friends from the North, the South, the East, and the West, in reducing the expenditures of the government to the lowest point, consistently with the national safety. I would not impose one dollar of duties on foreign imports, beyond what may be necessary to meet such an economical expenditure. In adjusting these duties, I shall never abandon the principle of discrimination in favor of such branches of home industry as may be necessary "to secure a supply of those articles of manufacture essential to the national independence and safety in time of war;" and this more especially after such manufactures have been established at immense expense on the faith of your laws. I would save them from sinking into ruin, by such a rate of discrimination as may be necessary to preserve them. I repeat that this is my creed; and it has always been the creed of the fathers of the Democratic church. (Vide the Congressional Globe, for the session of 1841–42, page 951.)

4. I am "opposed to any amendment of the constitution of the United States still further limiting the veto power."

5. I shall "abide by the decision of a national convention for the democratic party, in the selection of a candidate for the presidency; and shall give my support and influence to the election of the nominee of said convention."

Yours, very respectfully,

JAMES BUCHANAN.

MESSRS. ETHAN A. BROWN, JOHN LAW, NATHANIEL WEST, JOHN PETTIT, JESSE D. BRIGHT, and A. C. PEPPER, committee.

REMARKS, FEBRUARY 14, 1843,

ON RESOLUTIONS ON RETRENCHMENT AND TARIFF REVISION.[1]

Resolutions introduced by Mr. McDuffie, on the propriety of adopting measures to revive commerce, replenish the impoverished exchequer, and to arrest the accumulation of public debt, by reducing the tariff of the last session to a revenue standard, and by practising a rigid system of retrenchment, economy, and accountability, came up for consideration.

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Mr. Buchanan was very much impressed with the same considerations expressed by the Senator from Maryland, [Mr. Merrick,] that a protracted discussion on these resolutions and amendments would obstruct the pressing and necessary business of Congress yet to be acted upon this session. There were but fifteen days of the session yet unexpired, during which a very large number of public and private bills must be acted upon. No compensating benefit could be expected from the discussion of mere abstract questions leading to no action; for experience had shown that resolutions of this kind were, from time to time, offered and discussed at former sessions for weeks upon weeks, without leading to any practical results. He instanced several occasions, within a few years back, in which much time had been devoted to abstract discussions. At the same time, as the question of the assumption of the State debts, or of assisting the States to get out of their indebtedness, had been mooted, he concurred in the opinion that it was now necessary to have some unequivocal expression of the sentiments of the Senate on that point, and would be glad if it could be brought up, either in the form proposed by the Senator from Virginia, [Mr. Rives,] or in some other form; for he desired an opportunity to give expression to his sentiments. But he feared so much discussion would take place, and so many subjects of controversy would be opened up before the amendment of the Senator from Virginia could come up, that an opportunity would not be afforded of taking the vote of the Senate directly on the question; and he could, therefore, wish it had been brought forward by the Senator as a distinct proposition, on which a vote could be taken directly. He (Mr. B.) would, however, call upon the chairman of the Finance Com-

[1] Cong. Globe, 27 Cong. 3 Sess. XII. 281, 282.

mittee to make a report on the memorials and petitions which had been referred to that committee in such numbers during the session, and hoped he would be prepared, in a day or two, to make that report.

Mr. Evans said that no petitions were before the committee on the subject of the assumption of the State debts.

Mr. Buchanan said there were great numbers of petitions and memorials referred to the committee on the subject of issuing Government scrip, based on the public lands, to the amount of $200,000,000, for the relief of the States, which was the same thing.

Mr. Evans replied that petitions in relation to a currency of two hundred millions of dollars of that kind had been referred to the committee; but they had nothing to say about the assumption of the State debts.

Mr. Buchanan referred the Senator to the very last petition he (Mr. B.) had presented, and which had been referred to the committee.

REMARKS, FEBRUARY 21, 1843,

ON LEGISLATING PERSONS OUT OF OFFICE.[1]

A debate arose on an amendment to the navy appropriation bill, to strike out the proviso: "That hereafter no person shall hold the place of Chief of the Bureau of Medicine and Surgery who shall not have had five years of sea service."

Mr. Buchanan said, ever since he had been a member of that body, in all situations, and under all circumstances, he had been opposed to legislating men out of office, and particularly in cases where the men were entirely competent to discharge the duties of their offices. However much the Senator from Maryland [Mr. Merrick] might disavow any such intention in this case, he (Mr. B.) would undertake to say that, from the circumstances of the case, if this proviso should not be stricken out, the inference throughout the country would be irresistible. What was the nature of the case? A constituent of his, (Mr. B.'s,) a physician of very high character in his profession, a man of most extensive learning, without the slightest solicitation on his part, was brought here and placed at the head of the medical bureau. He

[1] Cong. Globe, 27 Cong. 3 Sess. XII. 322.

never sought the office; the holding of it, in fact, was an injury to his private interests; and his determination was not to continue to hold it a single day beyond the time when he should be enabled to complete the reforms which he had commenced. It was, as he said, at an inconvenience to himself, and from patriotic motives alone, that that gentleman continued to fill that office. And now it appeared it had been suddenly discovered that this gentleman had not been at sea for five years, and consequently, according to the opinion of the Senator from Maryland, was not acquainted with all the diseases, epidemic and endemic, to which seamen were liable. This was the argument of the honorable Senator. But the gentleman it appeared had been at sea for upwards of three years, and had left that service only because the Government desired his services in another department.

He would forbear to go into the merits of the question; he had no doubt the distinguished officer who had made charges against this gentleman believed every word he had stated; but, from his position, he could not possibly be acquainted with the facts. The gentleman in question had devoted himself to the remedying of abuses in the medical department; and, in these days of reform, if he was to be legislated out of office, it could only be because he had exposed those abuses.

REMARKS, FEBRUARY 25, 1843,

ON THE BANKRUPT BILL.[1]

Mr. Benton moved to strike out the proviso, which is in the following words:

Provided, That this act shall not affect any case or proceeding in bankruptcy commenced before the passage of this act, or any pains, penalties, or forfeitures incurred under the said act, but every such proceeding may be continued to its final consummation, in like manner as if this act had not been passed.

Mr. Berrien would not question the decision of the Senate on the Judiciary Committee's amendment; but he did hope the proviso in the House bill would not be stricken out. To all the class of cases protected by this proviso, its excision would be the most manifest injustice.

Mr. Benton proposed the same proviso, as a substitute, which

[1] Cong. Globe, 27 Cong. 3 Sess. XII. 347–349.

he had offered upon a former occasion upon the Senate's bill, making the pending cases subject to constitutional restrictions, and requiring the consent of a majority in value and number of the creditors necessary for the discharge of the bankrupts. On moving this amendment, he urged the same arguments in its favor which he had used on the former occasion alluded to.

Mr. Buchanan said he had not intended to trouble the Senate with a single word on the bankrupt bill, at this late period of the session; but as he had determined to vote against the amendment proposed by the Senator from Missouri, [Mr. Benton,] and would differ from some of his most valued political friends on this question, he felt it to be a duty which he owed both to them and himself to make a very few observations on the subject. Should the amendment prevail, and the proviso be stricken from the bill, it would deprive all those bankrupts of the benefit of the law whose cases were now pending, and who had not yet obtained their certificates of discharge.

He should be extremely sorry if his constitutional opinions would deprive him of the power of voting in favor of this proviso. In what condition would both the bankrupts whose cases were now pending and their creditors be left, in case it should not be retained?

The first class of desperate insolvents or bankrupts, who stood ready and eager to take the benefit of the law immediately after its passage, had already passed through the mill, and had been discharged from their debts. There were many individuals who had been crushed to the earth, and whose circumstances had been rendered desperate, by the discharge of their debtors and the consequent loss of debts honestly due to them, under this unjust and impolitic law. It was such individuals who would chiefly suffer, should the amendment be adopted. They had struggled with misfortune as long as they could, and had finally, at the last hour, applied for the benefits of the bankrupt law. The proceedings in their cases were now in different stages of their progress; and he should consider it unequal, unfeeling, and unjust to deprive the courts of the power of bringing them to a conclusion. It would be an extreme case, indeed, which could justify Congress in declaring, after an individual had put himself to the trouble and the expense of instituting any proceedings under the faith of their own laws, that he should be arrested midway; and that, too, when he could not by possibility be restored to his former condition.

But again: There was one State of the Union (he referred to the State of Missouri) where the district judge had decided the bankrupt law to be unconstitutional, and had refused to discharge any of the applicants for the benefit of its provisions. Strike out this proviso, and then, whilst debtors in all the other States had been discharged under the provisions of the law, no debtor in Missouri had ever enjoyed, or could enjoy, its benefits.

Again: He asked what would become of the property of bankrupts now in the hands of their assignees, or under the custody of the law. This would present a scene of confusion worse confounded. Strike out the proviso, and no distribution of it could take place among their creditors; because the law under whose provisions it would have been made had ceased to exist. This would lead to great injustice and endless litigation.

In view of these circumstances, if he even entertained serious doubts of the constitutionality of the bankrupt law, he would suffer these doubts to operate in favor of retaining the proviso, and would leave it to the Supreme Court to decide the constitutional question in the last resort. Nothing but a clear conviction that the law was a violation of the Constitution could induce him to sanction all these evils.

Mr. B. said he was the only Senator of his party who had made a speech against the final passage of the present bankrupt law; and if he were disposed to glorify himself for the gift of prophecy, he might refer to that speech, and it would be found that in every particular, with but one exception, his predictions had been verified. Much, however, as he was opposed to the passage of the law, he did not believe it to be unconstitutional. This would appear from a few sentences of that speech, delivered on the 24th July, 1841, which he would read to the Senate.

Mr. B. said, as he had referred to the speech which he had made in the House of Representatives on this subject, nearly twenty years ago, he felt bound to acknowledge that, upon one point, he had fallen into a then prevailing error. Of this he had been fully convinced by the debate in the Senate at the last session. In 1822, it was his opinion that the constitutional power of Congress was confined to traders, or that class of persons which were embraced by the bankrupt laws of England, at the time of the adoption of the Federal Constitution. This, he now believed, was too narrow a construction. The Constitution declared that "Congress shall have power to establish uniform laws on the subject of bankruptcies throughout the United States." The subject of bankruptcies was thus placed generally under our control; and wherever bankruptcy existed—no matter what might have been the pursuits of the bankrupt, whether he had been a trader or not—our power extended over him. It also, in his opinion, embraced artificial as well as natural

persons. Was it not absurd to say that an individual manufacturer on one side of the street, at Lowell, might be subjected to the compulsory operation of a bankrupt law, whilst two or three individual manufacturers on the other side of the same street, who had obtained a charter of incorporation from the Legislature of Massachusetts, could thus withdraw themselves, in their corporate capacity, from the power conferred upon Congress over bankruptcies?

So that he had recanted, and that in good time, what he believed to have been his error when he first entered the House of Representatives. He and his friend from Missouri [Mr. Benton] were, in this respect, placed in a similar predicament. They had both changed their old opinions; and he regretted that they were still on opposite sides.

He considered that it would be a very narrow construction indeed to confine our power over the subject of bankruptcies, which had been conferred in the broadest and most general terms, to the passage of just such a bankrupt law as existed in England at the date of the Federal Constitution. All the lights of experience, and all the improvements in the science of legislation, must then be disregarded; and while the world was in a state of constant progression, we must make a dead stand at the point where we found the English bankrupt law half a century ago. Surely the framers of the Constitution never intended any such absurdity. For his own part, he firmly believed that no bankrupt law based upon the English model could ever exist for any length of time in this country. It would always destroy itself, after a brief experience. Such a law was not applicable to a country of the vast extent of our own, where the Federal judicial tribunals were at such remote distances from each other, and when it was acknowledged that Congress did not possess the power of conferring jurisdiction in cases of bankruptcy on the State courts. If they were ever to have a permanent and beneficial bankrupt system, they must look to other models than the English. Fortunately, under the decision of the Supreme Court, each State now possesses the unquestionable power of passing bankrupt laws which will relieve its own citizens from the obligation of debts contracted with other citizens of the same State subsequent to the passage of such laws. Nay, more: a discharge under a State bankrupt law is valid even against the citizens of other States, or foreigners, who may accept a dividend of the debtor's effects; and this will always be accepted in cases where any considerable dividend exists. Several of the States now have such bankrupt laws. But enough, and more than enough, of this.

The present law was said to be unconstitutional, because it was an insolvent, and not a bankrupt law; and that it applied not only to traders, but to all other persons. But it would be extremely difficult to draw any line of distinction between insolvency and bankruptcy. Both signified the inability of a debtor to pay his debts. This was the meaning of both terms, in the abstract. There was this difference between a bankrupt law and an insolvent law—that, whilst the latter discharged the person of the debtor only, the former discharged both the debtor and the debt. Bankruptcy was a general term; and even in England, although nominally none but traders were entitled to the benefit of the bankrupt laws, yet, in reality, these laws had been extended, long before the adoption of the Federal Constitution, to many, very many persons, who could not, with any propriety, be denominated traders. Different acts of Parliament, and the most liberal judicial construction of the term "*traders*," had extended their provisions to almost every class of the community. He might cite numerous instances to prove this assertion, if time would permit, and if they were not familiar to every Senator. The policy of England had always been to extend still further and further the operation of their bankrupt laws to new classes of individuals. Whilst, therefore, he would be utterly opposed to the passage of any such bankrupt law for this country, he could not regard such a law as a violation of the Constitution, merely because its benefits or its injuries were not confined to persons who might technically and appropriately be called traders. The power conferred upon Congress by the Constitution was not limited to any class of persons, but extended to the whole subject of bankruptcies; and wherever bankruptcy existed—whether among merchants, or farmers, or tradesmen—Congress might subject them to the operation of a bankrupt law.

But it had also been contended that this law was unconstitutional, because it embraced cases of voluntary bankruptcy. Now, it was perfectly well known to every person acquainted with the history and operation of the English bankrupt law, that voluntary bankruptcy had existed in that country in fact, though not in form, for more than a century before the act of 6th George IV.; and this act did no more than to recognise a practice which had long prevailed. Insolvent debtors in England, before the passage of this act, were in the constant practice of concerting with some one of their creditors to commit an act of bankruptcy, who was thereupon to sue out a commission of bank-

ruptcy. It was very true that, if this concert were established, the commission would be avoided. But, in the nature of things, it was almost impossible to prove the fact; and, at last, the statute of George IV. expressly legalized such a proceeding. A debtor might now make a declaration of his insolvency in the prescribed form, and this was an act of bankruptcy; and it was expressly enacted "that the bankrupt, and any creditor, or other person, concerting such declaration, shall not invalidate the commission." Here, then, was voluntary bankruptcy to the same extent to which it now existed under our present law. The difference between them was in form, not in fact. In both cases the bankruptcy was equally voluntary, and in both the debtor chose his own time to make his application. He could not, then, say that our law was unconstitutional, because it recognised voluntary bankruptcy.

Neither could he agree with the Senator from Missouri, that the law was unconstitutional because it did not provide that, in order to procure his discharge, the bankrupt must obtain the consent of a majority of his creditors in number and value. He agreed entirely with him, that it would be unwise and inexpedient to pass a bankrupt law without such a provision; but that it would be unconstitutional, was altogether a different question. A bankrupt law was a law to discharge an insolvent debtor from his debts, on the condition that he fairly and honestly surrendered all his property for the benefit of his creditors. The mode and the manner of this discharge must necessarily be left to the discretion of Congress. These must necessarily vary, according to the varying opinions of the Legislature. In England, formerly, four-fifths in number and value of the creditors must have consented. It was now reduced to three-fifths; and the prevailing opinion, even there, now seemed to be, that it would promote the interest, both of the debtor and the creditor, not to require the assent of any portion of the creditors to the debtor's discharge. Under our old bankrupt law of 1800, two-thirds in number and value of the creditors were required to consent. The Senator from Missouri would now be satisfied with a majority. This was a mere incidental question, in passing any bankrupt law, which did not enter into its essence. And he could not say that such a law would not be a bankrupt law under the Constitution, although it might not require the consent of any portion of the bankrupt's creditors to obtain the debtor's discharge.

Whilst every feeling of his heart was in favor of relieving those unfortunate debtors whose property had already been re-

moved from their own control, and placed in the hands of assignees, and who had incurred the trouble and expense of commencing proceedings, he was truly rejoiced that no constitutional barrier interposed to prevent him from performing an act of humanity and justice.

He would suggest another consideration: he, in common with his political friends, was anxious that this law should be repealed before the close of the present session; that it should no longer be a blot upon our statute-book; that it should no longer produce the injustice, iniquity, and fraud which had startled the minds of a vast majority of the American people, and caused them to demand its repeal. If the proviso from the present bill were stricken out, and it were sent back to the House thus amended, the probability was, that it would be lost altogether, and that the law would neither be amended nor repealed. Was it not wiser, then, for Senators to make the trifling concession of suffering those who had already applied for its benefits to obtain their discharge, than to leave the law in full force for another year?

REMARKS, MARCH 3, 1843,

ON PENSIONS TO THE WIDOWS OF REVOLUTIONARY OFFICERS.[1]

Mr. Bates said, as most of the business on the calendar had been disposed of, he would ask the attention of the Senate to bill No. 655, making appropriations for the widows of the officers and soldiers of the Revolution. He had made several attempts to bring this subject before the Senate, but without effect; and he now made the motion to postpone all the previous orders, with a view to take up that bill.

Mr. King said he would be glad if the Senator would allow him to dispose of a bill for the relief of a poor soldier of the Revolution, which he was convinced would take up no time, and then the pension bill could be called up immediately afterwards.

Mr. Buchanan, (*sotto voce.*) Don't give way; he means to vote against our bill.

Mr. Bates said he could not consent that 5,000 widows of the officers and soldiers of the Revolution should give place for anything or anybody.

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[1] Cong. Globe, 27 Cong. 3 Sess. XII. 387–388, 389.

Mr. Buchanan thought it unreasonable as well as ungallant in his friend from Alabama to desire to make 5,000 widows give way for one poor old soldier. Such was his understanding of the gallantry of by-gone days, that 5,000 soldiers would gladly give way for one of the gentler sex, and particularly those standing in the light in which these estimable ladies did, as relicts of the heroes of the Revolution.

Mr. King said the bill he desired to have acted on was for one who had done the State some service; while the widows, who seemed to claim so large a share of the gentleman's sympathy, never did any service, nor did their husbands. These old women had married over and over again, and now came to claim pensions from the Government. These were beautiful times, indeed, to make gratuities of half a million of dollars to old women who never rendered any service whatever to the country.

Mr. Buchanan. Order.

Mr. King, (smiling.) How does the Senator make out his point of order?

Mr. Buchanan, (playfully.) The point of order I make is, that the Senator from Alabama should speak of these ladies *as old*. It was not pleasant to him to hear them thus spoken of; and he was quite sure it must be less so to them. To be serious, however, on this matter, he had been instructed unanimously by his State to support the measure; and, rigid as he was known to be where all matters of appropriation were concerned, he should vote for this bill with as much pleasure as he ever did for anything in his life. He did not mean to go into the discussion of the pension system; all he desired was to have some definite action on the bill. These ladies had before received the bounty of the Government; and why take it from them now, when they were some seven or eight years older than they were, and most of them on the extreme verge of life? To refuse them this little pittance, he held would be unkind, unjust, and ungrateful to the memory of their departed husbands. What was the difficulty on this matter? It had been said that the times were unpropitious; that the amount is large, &c.; yet they could sit and discuss, at midnight, joint resolutions to give thousands upon thousands to persons who were better paid than any other officers under Government, while this body sought to refuse a small pittance to those meritorious old ladies—the relicts of departed heroes of the Revolution.

Mr. Walker thought the bill might as well be taken up; for

when the Senator from Pennsylvania appeared at the head of his five thousand widows, he was a very formidable opponent, and not easily beaten.

The question was then taken on the motion of Mr. Bates, to postpone all the previous orders, with a view to take up the bill, and decided in the affirmative—yeas 23, nays 10.

So the bill was taken up.

Mr. Bates, chairman of the Committee on Pensions, rose and explained the bill at some length, going into detail, and pointing out the objects of the committee in the amendments they had proposed. The bill, as it came from the House, would make the number as computed from eight to nine thousand, and the amount required would have been somewhere about eight or nine hundred thousand dollars. The amendment of the committee, if adopted, would make the pension to extend to all married prior to 1794, to commence from the 4th of March, 1843. This would place some five or six thousand on the list, and, for the first year, would require between three and four hundred thousand dollars. Very few of these widows were under the age of seventy; and all knew how rapidly the sands of life run at this age. Most of these ladies had been engaged during the war of the Revolution, but their marriages had not been consummated until after the perils of the Revolution had ceased.

Mr. McDuffie. The Senator seems to speak knowingly of these matrimonial engagements. He (Mr. McD.) did not very well know what personal knowledge the chairman could have of the matter; but it seemed to him that engagements that lasted eleven years were rather too long.

Mr. McD. moved to amend the bill by striking out "ninety-four," and inserting "eighty-three," so that no pension under this act should be paid to any widow who was married to the revolutionary soldier or officer after the year 1783.

Mr. Buchanan suggested that the amendment, if it prevailed, would operate a defeat of the bill. He thought it better, therefore, to take a direct vote upon its passage.[1]

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Mr. Buchanan observed that discussion, at this stage of the bill, must be death to it; and, if he were to follow the example of the Senator from Mississippi, and go into the discussion of the

[1] The amendment was defeated.

question of the naval pension fund, and the propriety of pensioning the widows of naval officers, by the very consumption of time in the discussion the bill must necessarily be defeated.

His friend from Alabama was very much opposed to the bill, because, forsooth, (to use the language of the Senator from New Hampshire,) all the widows of revolutionary soldiers, who were married at any time previous to 1800, were not included. His expansive benevolence embraced the whole. He had told them that he would not vote for any, unless the whole were included. He (Mr. B.) was not disposed, under existing circumstances, to go so far.

In regard to the question now before them, he believed that public sentiment was far in advance of the action of Congress. Many of the State Legislatures had moved in the matter; and he believed ninety-nine in a hundred of the people at large were favorable to the granting of such pensions as now proposed. Every person could point to cases, within his own immediate vicinity, of destitute widows of revolutionary soldiers, who are supported by the liberality of their friends; and who, in case the bill did not pass, must go to the poor-house. Although he was opposed to extending the system of granting pensions, yet he thought this a class of cases which should not be neglected. It was admitted that those who were wives during the war ought to receive pensions; but, it was said, those who were married afterwards ought to be excluded. Was this so? Suppose it had been made optional with any one of those gallant men who served in the revolutionary war, whether he should receive a pension during his own life, or whether his widow, after his death, should receive it: what would have been his decision? Every one of them would have said, Relieve the distresses of the wife of my bosom. During my own life, I can afford her protection and support; but when that protection is withdrawn—when I am removed by death, and she is thrown defenceless on the world—then let her be taken under the protection of the Government which I have served. While he was opposed to the system of extending pensions to new cases, he thought there was much force in what was stated by the Senators from Massachusetts and Ohio. These widows had been in the habit of receiving the bounty of the Government, and they had not calculated upon that bounty being withdrawn; and if it should be withdrawn, they would be left infinitely more helpless and dependent than if they had never received a cent. He would ask his friend from Ala-

bama if, for the purpose of manifesting his gratitude towards his friend far advanced in life, he had taken that friend under his immediate protection, and furnished to him or her an annuity for five years, whether he would consider it the part of an honorable man to abandon that friend at an advanced period of life, and deprive him of the bounty which his benevolence had bestowed. He thought to debate the bill would be to kill it.

TO MISS LANE.[1]

LANCASTER 20 March, 1843.

MY DEAR HARRIET/

It affords me sincere pleasure to receive your letter. It is one of the first desires of my heart that you should become an amiable & a good girl. Education & accomplishments are very important; but they sink into insignificance when compared with the proper government of the heart & temper. How all your relatives & friends would love you,—how proud & happy I should be to acknowledge & cherish you as an object of deep affection, could I say, she is kind in heart, amiable in temper, & behaves in such a manner as to secure the affection & esteem of all around her! I now cherish the hope, that ere long this may be the case. Endeavor to realise this ardent hope.

What a long list of studies you are engaged upon! The number would be too great for any common intellect; but it would seem that you manage them all without difficulty. As mythology & history seem to be your favorites, I shall expect, when we meet that you will have all the Gods & heroes of Greece & Rome, at your fingers' ends. At a dinner table at Washington during the last session a wager was made that no person at the table could name all the Muses; and the wager was won. Had you been one of the company, the result would doubtless have been different. I presume that the Muses & the Graces are great favorites with you. Attend diligently to your studies; but above all, govern your heart & your conduct.

Your friends the Miss Crawfords are about to move to a much more comfortable house; so that should you return to school in Lancaster, you may be better accommodated. I presume your

[1] Buchanan Papers, private collection; Curtis's Buchanan, I. 536.

partiality still continues for these good ladies; but to be serious, you must acknowledge that you did not treat them as they deserve.

Our recent news from poor Elisabeth is very discouraging. Dr. Yates who has been to see her considers her case hopeless. Poor thing! She seems destined to tread the path that so many of our family have already trodden. Her husband is kind, affectionate & attentive, & she is surrounded by every comfort. She is in full communion with the Episcopal church.

I know of no news here which would interest you. Lancaster has been very dull; and is likely so to continue. Your music mistress, Miss Bryan, was married a few evenings since to a Mr. Sterrett of Pittsburg. Annie Reigart & Kate Reynolds will take their degrees in a fortnight & enter the world as young ladies. Judge Hayes has removed into town.

Miss Hetty says that both Mary & yourself promised to write to her; but that neither of you has written. She desires me to give her love to you both.

Your brother James is well.

Had Mary written to me that you were a good girl & had behaved yourself entirely well, I should have visited you during the Christmas holidays. Tell her I shall expect her to write soon; and as I rely confidently that she will not deceive me, I shall most heartily rejoice should her account of you be favorable. In that event, God willing, I intend to pay you a visit.

Remember me most kindly to Mrs. Kennedy whom I remember with much pleasure "frae auld lang syne," also to Miss Annie.

Give my kindest love to Mary & believe me to be yours

Most affectionately

JAMES BUCHANAN.

P. S.—Yr. uncle Edward & the family are well except your aunt. She has been in delicate health all winter; but is now much better. Jessie Magaw is in Baltimore; but will return home to Meadville soon. Your letter is without date & does not purport to come from any particular place.

TO MISS LANE.[1]

LANCASTER 25 July 1843.

MY DEAR HARRIET/

I enclose you a letter which I have received from Buck Yates, as your name is honorably mentioned in it. I wrote to him that it was ungallant for a young naval officer to inform a "ladye faire," that he would answer her letters should she write; & that he should himself commence the correspondence.

I intend to leave for Bedford Springs in a day or two & it is my purpose to return by Charlestown after two or three weeks & pass a day or two with Mary & yourself.

Give my kindest love to Mary & believe me to be

Yours affectionately

JAMES BUCHANAN.

MISS HARRIET LANE.

You can keep the letter. Mary Yates is now at her uncle Edward's & will be there during the vacation of her school in Baltimore.

ADDRESS, DECEMBER 14, 1843,

WITHDRAWING AS A PRESIDENTIAL CANDIDATE.[2]

TO THE DEMOCRATS OF PENNSYLVANIA.

FELLOW-CITIZENS: After long and serious reflection, I have resolved to withdraw my name from the list of presidential candidates to be presented before the democratic national convention. This resolution has been dictated by an anxious desire to drive discord from the ranks of the party, and secure the ascendancy of democratic principles, both in the state and throughout the union. In arriving at this conclusion I have consulted no human being. It is entirely my own spontaneous act, and proceeds from the clearest and strongest conviction of duty.

Whilst thus taking my leave as your candidate for the presidential office, I am animated by a sense of profound gratitude for the unanimity and enthusiasm with which you have urged my

[1] Buchanan Papers, private collection.

[2] Niles' Register, December 30, 1843; reprinted from the Lancaster *Intelligencer*.

elevation to the highest office on earth. This feeling shall remain engraven on my heart until time for me shall be no longer.

When, in January last, democratic members of our state legislature, in their letter addressed to me, "presented my name to the union as Pennsylvania's favorite candidate for the presidency," I made some observations in my answer to which I desire to recall your attention. I then stated that if the democracy of Pennsylvania "should resolve to offer my name to the national convention as a candidate for the presidency with that degree of unanimity which could alone give moral force to their recommendation, I felt that I ought not to counteract their wishes." This, I am proud to believe, they would do with unexampled unanimity; yet every unprejudiced man who has observed the current of political events since that period must be convinced that even the great moral influence of Pennsylvania with her sister states would be exerted in vain to secure my nomination. Under such circumstances, ought I, for any personal considerations, to suffer the great state which has bestowed so many honors upon me to ask, the first time in her history, for a presidential candidate of her own, with a certain conviction on my part that the request would not be granted? Should I be the means of placing her democracy in a false position, which yet their high sense of honor and the noble perseverance of their character might forbid them to abandon? To ask these questions, my heart tells me, is to answer them in the negative. Every feeling of gratitude and of duty dictates that I should leave them to decide, in the national convention, among the candidates whose prospects are more promising.

But a still higher obligation rests upon me. In my letter, to which I have already referred, I declare that "the principles and the success of the democratic party so immeasurably transcend in importance the elevation of any individual, that they ought not to be jeoparded in the slightest degree, by personal partiality for either of the candidates." And, again: "If I know my own heart, I should most freely resign any pretensions which the partiality of friends has set up for me, if by this I could purchase harmony and unanimity in the selection of a democratic candidate."

The time has now arrived when I feel myself constrained to apply these principles to my own practice. It is true that I may not be able to secure entire unanimity in the party by withdrawing my name from the list of candidates, but yet I shall reduce

their number, and thus diminish the elements of discord. The great moral and numerical strength of Pennsylvania, to which her uniform self-sacrificing patriotism adds a double force, will then be felt in all its power, and may decide the contest in a manner satisfactory to the entire democracy of the union.

I can proudly say that, since I have occupied the position of your candidate before the country, to which I was assigned by your unsolicited kindness, I have done nothing to tarnish your fair fame. Entertaining the conviction that the glory and perpetuity of our institutions require that the highest office under heaven should be the *voluntary* gift of the only free people upon earth, I have totally abstained from all personal efforts to promote my own success.

After what I have already said, I need scarcely again repeat the pledge I have so often given, that I shall firmly support the nominee of the democratic national convention.

To my friends in other states, who have deemed me worthy of their support, I tender my most grateful thanks; believing that I shall best promote their wishes for the union and strength of the democratic party by withdrawing from what they must now be satisfied would be a hopeless contest for the nomination.

In conclusion, I can solemnly declare, that the only solicitude which I personally feel upon the subject of this letter is, that you shall be satisfied with my conduct; for, next to the approbation of my God, I value your continued favor far above all other considerations.

JAMES BUCHANAN.

WASHINGTON, December 14, 1843.

REMARKS, DECEMBER 21, 1843,

ON PEA PATCH ISLAND.[1]

The President *pro tem.* announced that the first thing now in order was the bill reported from the Committee on the Judiciary, for the settlement of the title to the Pea Patch island, in the river Delaware.

The bill was accordingly taken up for consideration, as in committee of the whole.

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[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 57, 57–58.

Mr. Dayton observed that he did not know of any objection to the bill, as it was the same in substance as that which had last session passed the Senate unanimously; but noticing that two Senators who took an interest in the bill were not in their places, (one from Delaware, and the other from New Jersey,) lest objections might be raised in their absence, he thought it would perhaps be better to let the matter lie over for another day.

Mr. Buchanan asked if the two Senators now absent had voted for the bill last session?

Mr. Dayton replied that they had.

Mr. Buchanan urged that, in that case, there could be no objection to going on with the bill. He desired earnestly that this subject should be brought to a conclusion. The city of Philadelphia has been left undefended, simply because Delaware and New Jersey cannot agree about this Pea Patch island.

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Mr. Buchanan said that as it was his intention to leave the city this afternoon for a few days, he desired, while the bill was up, to make a few remarks on the subject. This controversy had existed for a great many years, to the great detriment and prejudice of the State of Pennsylvania. It had been a never-ending source of controversy; and now that the parties have agreed to settle it, it is certainly extremely desirable that the adjustment should be made speedily. It is particularly important to Pennsylvania, because Pea Patch island is the only point, he believed, in which the Delaware could be defended. Now, he admitted that this was an awkward mode of settling the question; but it would be recollected by the Senate, that the controversy existed between two sovereign States of this Union. The State of Delaware did not feel itself bound by any act of the State of New Jersey. Each State controverted the right of the other to jurisdiction over the island until this day; and now, when both these States, and the individual concerned in the title, concurred in leaving the matter to be finally determined by Mr. Binney, whose determination can be made within two weeks, he (Mr. B.) would be very sorry indeed that the bill should be delayed; for he feared it might lead to another postponement of the question for eight or ten years. He hoped that his friend, the Senator from Ohio, would not permit this postponement to take place. He hoped that the Senate would not object to the course which the parties had agreed upon. At the same time, he was perfectly willing,

if the Senator from Ohio still desired it, that the bill should lie over for the present, with the understanding that this subject of everlasting litigation should speedily be brought to a close.

Mr. Benton, after a few remarks, not distinctly heard by the reporter, was understood as taking a view of the subject different from that taken by the Senator from Pennsylvania, with regard to the necessity on the part of the United States of submitting her interests to arbitration. The selection of Pea Patch island by the General Government was made more than a quarter of a century ago, because it was an important and suitable place for the erection of works for the defence of the Delaware. Having been selected as a place material to the whole Union, Congress made appropriations for the erection of fortifications, and possession of the island was taken by the Government, and some of the works were constructed. This the Government had a right to do; and now all that remained to be done, was to pay whatever claimant should prove to be entitled to payment. The business of the Government was to defend the Union, and to take such steps as should be necessary to allow that object. The Government was not to let a great commercial city be without its necessary defence, pending any controversy about State jurisdiction or individual right of title. Its business was to take possession, and go on with the necessary works for the public defence, and then pay the person for the property taken, on proof of title. Now, he (Mr. Benton) saw no reason why the claimants could not show their title to Congress as well as to Mr. Binney. Was it not proper that the representatives of the people of the United States, and of the interests of the United States, should adjust their own business without any reference to Mr. Binney or any one else? He had no idea of permitting the interests of the United States to be submitted to an arbitration of this kind. Let not Congress for a moment admit that it is not competent itself to settle its own affairs, or that it is necessary to employ a referee to adjust a matter in which its course is clearly pointed out by the Constitution.

Mr. Buchanan wished to say a word in reply to the Senator from Missouri. He thought his honorable friend was wrong in regard to the constitutional law upon this subject. Private property may be taken possession of by the Government of the United States; but such property must first be paid for. The United States had obtained the cession of the island from the State of Delaware, and now the individual claiming the title, and the State

of New Jersey, have consented to the manner of adjusting the only thing left yet to be settled. But the Government of the United States has no power, and God forbid she ever should have any, to take from individuals their property, without damages having been first assessed and paid. As to the Senator from Missouri, he (Mr. Buchanan) conceived he was wrong in his constitutional law on this subject. This Government has no right to settle down upon the principle of taking property *vi et armis*. He did not believe that any other country had adopted, or acted upon, such a principle. He believed there was no other conceivable mode by which this question could be settled; but he confessed that, were it not for the delay, he would prefer having the matter adjusted by the Supreme Court of the United States. There seemed, however, to be so much difficulty in the question of jurisdiction between the States of Delaware and New Jersey as to render it almost hopeless that the matter could there be settled within any reasonable period. But for this, he would have no preference for the reference proposed in this bill. It provides—and I am very glad that the legal owners agree to the arrangement—that the value of the property shall be assessed, as if taken at the time when the Government first took possession of it, with legal interest on the amount from that time to the present. He was very willing that the bill should lie over for the present; but he did hope that the Senate would dispose of it as speedily as possible, and thus get rid of this very protracted question.

Mr. Tappan thought the Senator from Pennsylvania was mistaken as to the law on this point. He says the Government may take the land, but not till it is paid for. With great deference to the opinion of the Senator, he would submit that the only part of the Constitution applying to the case was the last clause of the fifth article of the amendments, viz.: "Nor shall private property be taken for public use without just compensation." The practice of the States, which have a similar clause in their constitutions, has always been to take the property of individuals, and afterwards compensate the right owners. He thought that the subject ought to lie on the table.

Mr. Buchanan did not at all admit that his construction of the Constitution had been open to correction.

1844.

REMARKS, JANUARY 8, 1844,

ON THE OREGON QUESTION.[1]

A debate took place on a resolution previously offered by Mr. Allen, as follows:

Resolved, That the President be requested to lay before the Senate (if in his judgment that may be done without prejudice to the public interests) a copy of any instructions which may have been given by the Executive to the American Minister in England, on the subject of the title to, and occupation of, Oregon, since the 4th day of March, 1841; also, a copy of any correspondence which may have passed between this Government and that of Great Britain in relation to that subject since that time.

Mr. Buchanan observed that he knew it was in bad taste for him, at that late hour, to make even the few remarks which he desired to offer. He would, therefore, be very brief in stating the reasons for the vote which he should give.

A very important question had arisen in this discussion, far transcending a mere call for information. The constitution had declared that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur." For some years after the formation of the government, it was the practice of General Washington to ask the advice of the Senate in advance, before the treaty was actually concluded. He doubtless believed that the constitution required he should pursue this course, or he would not have adopted the practice at the origin of the government. Every movement was then well considered; and that, too, by the men who had framed the constitution. In the course of time this practice was discontinued, on account of its inconvenience. The government were often obliged to send negotiators to distant foreign countries; and, if it had been necessary to consult the Senate on every new question which might arise in the course of the negotiation, years would have elapsed before such questions could be decided. The minister would have to wait, no matter how urgent the case might be, until he could send three or four thousand miles for instructions; and when his despatch arrived in this country, the Senate might not be in session. The continuance of the practice adopted by General Washington would have produced interminable delay. In fact, under such circumstances,

[1] Cong. Globe, 28 Cong. 1 Sess. XIII., Appendix, 104.

in many instances the propitious moment for making a treaty might have passed away altogether, before the instructions could be received. For these and similar reasons, the practice of consulting the Senate in advance had been abandoned for the last forty years. The President now makes the treaty, in the first instance, and after it has been concluded, he submits it to the Senate for their "advice and consent;" and they either ratify or reject it, according to their discretion. But did it follow that the Senate, because they have acquiesced in this convenient practice, had abandoned the power, under all circumstances, of interposing their advice before a treaty was actually concluded? Did their right, as a constituent portion of the treaty-making power, depend upon whether the President thought proper to consult them in advance or not? This was the important question which had been raised in the course of the debate; and it was one of the gravest questions to this government which could arise. They might know, from actual communications made to them by the President in their executive character, that a negotiation was proceeding in the city of Washington, which, in their opinion, would prove disastrous to the best interests of the country. Under such circumstances, had they not a right to interpose their advice, by resolution, before the treaty was concluded? Were they obliged to wait until the interests of the country had been so far involved by the conclusion of the treaty, that it might become, as it was in the case of the late British treaty, a choice of evils, whether to ratify or reject? His own impression was, that the Senate, in their executive capacity, had a right to interpose and arrest the evil, in the first instance. It was his impression that they had the same power to dissent at the first as at the last, though the public convenience might require that this power ought never to be exercised, except on extraordinary occasions. He should be most willing to have the question discussed in executive session.

Mr. B. could not vote for the present resolution calling upon the President, (as it did, in effect,) to publish the instructions to the world, which he may have given to our minister in London, respecting the Oregon Territory. As has been said in the debate, this would be to show our hand to the British government, whilst they concealed theirs from us. We had the unquestionable right to make such a request of the Executive, even in our public legislative capacity; but he should deem it very unwise policy to exercise this right.

In Europe, such had been the desire to conceal from the opposite party the instructions to make treaties, given by governments to their ministers, that it was not uncommon, in former times, for such ministers to wear their instructions in a belt around their bodies. Every diplomatic art had been resorted to by the parties to obtain a knowledge of the nature of each other's instructions; and why? Because these instructions contain not only the terms which the minister is to urge in the first instance, and to obtain, if possible, but also the very last concessions which he is permitted to make, rather than produce a rupture between the two nations. It is then manifest, that if foreign governments can discover the very lowest point to which this government will go, they never will accept any but the very worst terms to which we would accede. Suppose, for the sake of the argument, (and for that only, because he did not distrust the President,) that these instructions to our minister in England contained concessions derogatory either to the interest or the honor of the country, and they should be published: would not this be the strongest inducement in the world for the British government to insist upon terms which they might not even have proposed, had they not acquired a knowledge of how much the President would be willing to yield? He had been informed, upon what he deemed good authority, of an occurrence in Russia, which manifested the eager desire of foreign governments, by fair means or by foul, to obtain a knowledge of the instructions given to the ministers of each other. The Russian government, pending an important negotiation with England, were extremely anxious to obtain a copy of the instructions to the British ambassador; but he kept them so carefully that all their efforts were in vain. However, at last, he made a journey from St. Petersburg to Moscow, and placed his instructions, under lock and key, in a false bottom which had been made in his carriage for this express purpose. On the way, he left his carriage for a short time to take some refreshment at an inn; and upon his return, unlocking the place of their concealment, he discovered that his instructions were gone; but afterwards, to his astonishment, upon his arrival at Moscow, he found them carefully locked up, in the very same place from which they had been taken. He complained to the Russian government of this violation of the rights of an ambassador; but they professed their entire ignorance of the whole matter, and thus the affair ended. Whilst other nations were so anxious to conceal their instructions to their ministers, and this

for the best reasons, he thought it would be most unwise policy for us to request the President, in any case which he (Mr. B.) could imagine, to lay such instructions before the Senate in their public legislative capacity. It was true that the usual exception had been made in the resolution, and it was left to the President to decide whether the public interest would permit him to comply with our request, but we ought not to make such a request, or cast the responsibility of a refusal upon him, if we deemed a compliance with it on his part to be impolitic and unwise. It was for the Senate to exercise their discretion on the subject in the first instance. He would observe that the publication of any correspondence which may have taken place between this government and that of Great Britain, on the subject of Oregon, was another and a very different question. This could give that government no information but what they possessed already; and was, therefore, very different from the publication of instructions.

But the constitution had provided the Senate with the means of obtaining a knowledge of these instructions, without giving a foreign government any advantage by their publication. As a branch of the executive government, we had a right to call for them confidentially, in executive session. For one, he should most cheerfully vote in favor of such a call. Such was his determination to maintain the right of the United States to the Territory of Oregon, that he should not only vote for the call in executive session, but, if he found the Senate possessed the power, (as he was under the impression they did,) he would vote "advice" to the President, if he should find, after the instructions had been received, that this was necessary to preserve the country from any improper sacrifice.

He would be rejoiced not to be called upon to vote on this resolution in our legislative session; and if he could take that liberty, he would suggest to the senator from Ohio to permit it to be laid upon the table, and to offer a similar resolution in executive session.

Mr. Allen not yielding to the suggestion,

The question was taken on the adoption of the resolution, and decided in the negative—yeas 14, nays 31, Mr. Buchanan voting in the negative.

REMARKS, FEBRUARY 27, 1844,

ON THE DUTY ON RAILROAD IRON.[1]

Mr. Buchanan presented the memorial of a number of the citizens of Philadelphia, protesting, in the strongest terms, against the repeal of the duty on railroad iron—a measure so strongly urged, as they allege, by our large and wealthy incorporated railroad companies, and English manufacturers and agents. They assert positively that, "under existing laws, railroad iron can and will be produced to meet the entire wants of the country;" and that "works have already been established for that purpose, upon a scale that will compare with the best establishments in England; and, ere long, iron will be produced from them as cheaply here as abroad; and it can now be had at 20 per cent. less than was paid for a similar quality of railroad iron seven years ago, when it was imported free of duty." "The works referred to are the Great Western Iron-works, on the Allegheny river; the Montour and Wilkesbarre Iron-works, on the Susquehanna river; the Crane Iron-works, on the Lehigh—all in Pennsylvania; the Mount Savage Iron-works, in the vicinity of Cumberland, Maryland; the New Jersey Iron-works, at Boonton; and the Tredegar Iron-works, at Richmond, in Virginia." They also state (and state most truly) that "railroad iron will not be manufactured as long as *a hope* is entertained that Congress will remit the duty upon this class of iron to incorporated companies—all of whom have imported their iron under this expectation, and now ask for a legislation *peculiar* to itself, and which must prove most disastrous to the whole country."

Mr. B. moved that this memorial should be printed. It contained much useful information; and the statements of the memorialists, so far as he knew their character, were entitled to the highest respect. He must be permitted to say that, after the number of solemn decisions on this subject which had been made by the Senate within the last few years, the bill recently reported by the Committee on Finance was a most extraordinary measure. It proposed to admit railroad iron, for the use of all incorporated companies, free of duty, for five years, and then allowed them three years, after the period of five years had expired, to lay down this iron; thus, in substance, exempting the

[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 326.

stockholders in such corporations from the common duties paid by all other citizens of the country, for eight years.

The petition was laid upon the table, and ordered to be printed.

TO THE REV. MR. BUCHANAN.[1]

WASHINGTON 29 February 1844.

DEAR EDWARD/

I have received your very acceptable letter & rejoice to learn that you & the family have enjoyed uninterrupted health since we parted. I now begin to entertain strong hopes that Charlotte may outgrow her disease.

This City is now covered with mourning. Ere this can reach you, you will doubtless have heard of the dreadful accident which occurred on board the Princeton yesterday. Among the killed was Governor Gilmer, the recently appointed Secretary of the Navy. He & I were bound together by strong ties of friendship. He was an able, honest, clear-headed, shrewd & patriotic man who, had he lived, would at no distant day have become still more distinguished. He accepted the office in which he died from the purest & most disinterested motives and the Country has lost much by his death. His wife was on board the Princeton; and how mysterious are the ways of Providence! urged her husband to have the fatal cannon fired once more. She is almost frantick. She is an excellent woman & is now left with nine children & in no affluent circumstances. Colonel Benton was at the breech of the gun & looking along the barrel so that he might observe the course of the shot, when the explosion took place & received no bodily injury except from the concussion.

I was not on board myself & am disposed to consider it almost providential. I received no invitation, although I have been on terms of intimate friendship with Captain Stockton & all his family for more than a quarter of a century. If invited, the invitation never has reached me: if not, it is perhaps still more remarkable. Had I been on board, the probability is I should have been with those who were around the gun at the time of the explosion.

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[1] Buchanan Papers, Historical Society of Pennsylvania; Curtis's Buchanan, I. 521.

Although with a straitened income, yet you must be a happy man, if you sincerely believe the doctrines which you preach & honestly practise them: and I have no reason to doubt either. If the fleeting life of man be but a state of trial for another world, he surely acts the most wisely who spends his time in securing the things which pertain to his everlasting peace. I am a believer; but not with that degree of firmness of faith calculated to exercise a controlling influence over my conduct. I ought constantly to pray, "help thou mine unbelief." I think often & think seriously of my latter end; but when I pray (and I have preserved & with the blessing of God shall preserve this good habit from my parents) I can rarely keep my mind from wandering. I trust that the Almighty father, through the merits & atonement of his son, will yet vouchsafe to me a clearer & stronger faith than I possess. In the mean time, I shall endeavor to do my duty in all the relations of life.

This was to have been a week of great gaiety here. There was to have been a party & ball at the President's on Friday evening, a grand dinner at Mr. Blair's on Saturday, a grand diplomatic dinner at the French minister's on Sunday, another at Mr. Upshur's on Tuesday & a grand ball by Mr. & Mrs. Wilkins on Thursday. I was invited to them all; but promptly declined the invitation for Sunday, having too much regard for the Sabbath to partake of such a festivity on that day. Still I did not assign this as my reason, because my life would not justify me in taking such ground.

God willing, I expect to visit Lancaster about the first of April & pass a few days there. I then hope to enjoy the pleasure of seeing you all in good health.

Give my love to Ann Eliza & the family; & remember me kindly to Dr. Sample, Joel Lightner, Mr. Conyngham & Mr. Mussleman & believe me ever to be your affectionate brother

JAMES BUCHANAN.

REV. EDWD. Y. BUCHANAN.

REMARKS, MARCH 4, 1844,

ON THE DEATH OF MR. FRICK.[1]

A message was received from the House of Representatives by Mr. McNulty, their Clerk, informing the Senate of the death of the Hon. Henry Frick, a representative from Pennsylvania, and the passage of the usual resolutions of that body, in testimony of respect for the memory of the deceased; which being read,

Mr. Buchanan rose, and addressed the Senate as follows:

Mr. President: It has become my painful duty to move the resolutions customary on such occasions, as a token of respect for the memory of the Hon. Henry Frick, late a member of the Pennsylvania delegation in Congress, information of whose death has just been communicated to us by the House of Representatives.

The performance of such a duty, at all times solemn, is rendered peculiarly impressive upon the present occasion, by the sad and melancholy gloom in which we are now enveloped. The vanity of worldly honors and the folly of ambition have been brought home to the hearts of all who hear me, by the late astounding and heart-rending catastrophe, which has covered a nation with mourning. Every man, and especially every public man, must, at the present moment, deeply feel how worthless are the highest honors and distinctions which human power can bestow upon human frailty; even when these have been nobly won by wisdom, patriotism, and virtue. Truly, in the language of Scripture, "man walketh in a vain shadow, and disquieteth himself in vain." The grave had not closed upon the mortal remains of those whom we all deplore, when death struck down another victim from our midst, among our associates in Congress. May these melancholy events, following each other in such rapid succession, soften and subdue the maddening pulse of political excitement, and teach us to feel that we are all brethren—that we are all fellow-citizens of the same glorious republic!

Mr. Frick was born in the county of Northumberland, and State of Pennsylvania, in the year 1795. At an early age he learned the noble art of printing, in the city of Philadelphia. Whilst yet in his minority, fired with youthful patriotism, he united himself to a volunteer company, and took up arms in de-

[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 338–339.

fence of his country during the late war with Great Britain. In the year 1816, he established a political journal in his native county, which he continued to conduct for more than twenty years; and it is still owned and conducted by members of his family.

Mr. Frick represented his county with fidelity and ability during three successive sessions, commencing with that of 1828, in the legislature of Pennsylvania; and he was finally elected to Congress in October last, under circumstances which clearly evince that he enjoyed uncommon personal popularity among those who knew him best. The history of his life presents no very remarkable events. It is the history of a man (fortunately so common in this country) who, from an humble beginning, has, by industry, ability, and perseverance, gradually surmounted every intervening obstacle, and at last attained the high distinction of a seat in the other branch of Congress. He terminated his earthly career in this city, on Friday last, after a long and lingering illness, which he bore with calmness and resignation.

The deceased was an affectionate husband, a kind father, and a sincere friend. The impulses of his nature were noble and generous; and he performed all the relative duties of life in such a manner as to secure to himself numerous, ardent, and devoted friends. Let his virtues be remembered, and let his faults (if he had any) be buried in his grave!

The widowed partner of his bosom, in obedience to a feeling so natural to the human heart, requested that his mortal remains might be carried home for interment in the bosom of his native earth. In compliance with her wish, and under the advice of the Pennsylvania delegation, his body left this city on Saturday morning last, accompanied by his son and two of his friends from the other House. This is the reason why no order has been taken concerning his funeral.

He concluded by submitting the following resolutions, viz.:

Resolved, That the Senate has received, with deep sensibility, the communication from the House of Representatives, announcing the death of the Honorable Henry Frick, a representative in Congress from the State of Pennsylvania.

Resolved, That in token of sincere and high respect for the memory of the deceased, the members and officers of the Senate will wear crape on the left arm, as mourning, for thirty days.

Resolved, As a further mark of respect, that the Senate do now adjourn.

The resolutions were unanimously agreed to; and

The Senate adjourned.

SPEECH, MARCH 12, 1844,

ON THE OREGON QUESTION.[1]

The following resolution offered by Mr. Semple being under consideration:

Resolved, That the President of the United States be requested to give notice to the British government that it is the desire of the government of the United States to annul and abrogate the provisions of the third article of the convention concluded between the government of the United States of America and his Britannic Majesty the King of the United Kingdom of Great Britain and Ireland on the 20th October, 1818, and indefinitely continued by the convention between the same parties, signed at London the 6th August, 1827—

Mr. Buchanan rose and said:

Mr. President: I feel deeply impressed with the importance of the question now under discussion, and of the necessity which exists for its speedy adjustment. My conviction is strong that a peaceful settlement of this question can only be accomplished by prompt but prudent action on the part of this government. We are all anxious that it should be settled in peace; and there is no senator on this floor more anxious for such a happy consummation than myself. Whilst this is the desire of my heart, I am yet firmly convinced that the mode by which senators on the other side desire to attain this desirable end will utterly fail. Already we are sending numerous emigrants every year across the Rocky mountains; and we are sending them there without the protection of law, and without the restraints of civil government. We have left them, hitherto, to the unlimited control of their own passions. We must send them laws and a regular form of government. We must take them under our protection, and subject them to the restraints of law, if we would prevent collisions between them and the British occupants—the servants and people of the Hudson Bay company. This we must do, if we would preserve peace between the two nations. The present is a question, not of mere theory, but of practical statesmanship; and I sincerely hope that such a course may be pursued as will sustain the rights of the country to the territory in dispute, and, at the same time, preserve the peace of the world.

I care but little as to the mere form of the resolution proposed by the senator from Illinois, [Mr. Semple.] If it be not altogether perfect, it can easily be amended. This I shall say,

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[1] Cong. Globe, 28 Cong. 1 Sess. XIII., Appendix, 345–350.

however: we ought not to expect that the President, under existing circumstances, would assume the responsibility of giving the proposed notice for the purpose of terminating the treaty of joint occupancy, without the sanction of one or both Houses of Congress. The treaties of 1818 and 1827 are the law of the land. They were ratified by the constitutional majority of two-thirds of the Senate; and their provisions have now been in force for more than a quarter of a century. It could not, therefore, be expected that the President would give the proposed notice on his own responsibility alone. On the question of his abstract power to do so, I express no opinion. Without any technical objections to the mere form of the resolution, and without further remark, I shall proceed at once to the statement and discussion of the main question.

The third article of the convention of the 20th of October, 1818, between the United States and Great Britain, contains an agreement that the country on the northwest coast of America, westward of the Stony mountains, during the term of ten years, with its harbors, bays, and creeks, and the navigation of its rivers, "shall be free and open to the vessels, citizens, and subjects of the two powers," without prejudicing the claim of either party to the territory in dispute. The provisions of this third article were extended for an indefinite period by the convention of the 6th of August, 1827; subject, however, to the condition that either of the parties, "on giving due notice of twelve months to the other contracting party," might "annul and abrogate this convention." The question, then, is, shall we advise the President to give this notice?

If our government should annul the convention, then each of the parties will be restored to its original rights. In what condition would the United States then be placed? The northern boundary of Mexico, on the Pacific, is the forty-second parallel of north latitude. By separate treaties between the United States and Russia, and Great Britain and Russia, this power has relinquished all claim to any territory on the northwest coast of America, south of the latitude of fifty-four degrees and forty minutes. Thus the territory in dispute embraces that vast region extending along the Pacific ocean, from the forty-second degree of north latitude to fifty-four degrees and forty minutes north, and running east along these respective parallels of latitude to the summit of the Rocky mountains. Now, sir, to the whole of this territory—to every foot of it—I believe most firmly that

we have a clear and conclusive title. This has not been denied by any senator. Under the public law of Christendom, which has regulated the rights of nations on such questions ever since the discovery and settlement of the continent of America, the validity of our title can be demonstrated. I shall, myself, attempt to perform this duty on a future and more appropriate occasion, when the bill to establish a territorial government for Oregon shall come before the Senate, unless, in the mean time, it shall be accomplished by some senator more competent to the task.

The materials for this work of mere condensation and abridgment are at hand. They are all to be found in the powerful speech of the new senator from Illinois, [Mr. Breese,] which has made such a favorable impression upon the body; in the able and convincing treatise on the subject by a distinguished citizen of Philadelphia, Peter A. Browne; and, above all, by the facts and arguments, the labor of years, collected and presented by Mr. Greenhow, in his History of California and Oregon, which has exhausted the subject, and left not a doubt of the validity of our title.

Assuming, then, for the present, with the senator from Massachusetts, [Mr. Choate,] that our title is undoubted, I shall proceed directly to discuss the question whether we should give the notice proposed by the resolution.

And, in the first place, I shall contend that, if we desire to bring the negotiation to a speedy and successful termination—if we wish to make any treaty with England at all upon the subject,—it is indispensably necessary that we should give the notice. And why? From the plainest principles of common sense, and from the policy which governs nations, it cannot be expected—nay, it ought not to be expected—that England will voluntarily surrender the Oregon territory, or any part of it, while the present treaty exists, under which she now enjoys the whole. The *status in quo* (as writers on public law call it) is too favorable to her interests to expect any such result. She now holds, and has held, the exclusive possession of the territory for more than a quarter of a century, for every purpose for which she desires to use it at the present. The Hudson Bay company have claimed high merit from the British government for having expelled our hunters and traders from the country. We have been informed by the senator from Missouri, [Mr. Benton,] and other western senators, that this company—either directly, by their own agents,

or indirectly, by the Indians under their control—have murdered between four and five hundred of our fellow-citizens, who had crossed the Rocky mountains for the purpose of trading with the natives, and of hunting the fur-bearing animals which abound in those regions. They have driven away all our citizens whose pursuits could interfere with their profits. Under the existing state of things—under the present treaty of joint occupation,—they have the whole country to themselves, and all the profits to be derived from its possession. The Hudson Bay company now enjoys the monopoly of the fur trade, which has poured millions into its coffers, and has greatly promoted the commerce and furnished a market for the manufactures of the mother country. The truth is, that the present treaty of joint occupation, although reciprocal between the two nations in point of form, has proved beneficial in point of fact to England, and to England alone. She has at present all she can desire; and any change must be for the worse. Why, then, should she consent to divide the possession of this Territory with the United States? Why should she be willing to surrender any part, when she now enjoys the whole? Even if we were to yield to her monstrous proposition to make the Columbia river the boundary between the two nations, still would she not desire delay, enjoying already, as she does, the practical ownership of the whole territory south, as well as north, of that river?

Knowing the policy which has always actuated the British Government, I should not be astonished, if we could penetrate the cabinet of Mr. Pakenham, to find there instructions to this effect:—Delay the settlement of the question as long as you can; the longer the delay the better for us; under the existing treaty we enjoy the whole of the fur trade; under it we now possess far greater advantages than we can expect under any new treaty.

They have already all they desire; and, my life upon it, there will be no new treaty, if the Senate should, as I have no doubt they will, lay this resolution upon the table for the reasons which have been urged in the debate. Sir, if this resolution should be laid upon the table, accompanied by the able and eloquent arguments of senators on the other side—by the argument of the senator from Massachusetts [Mr. Choate] in favor of continuing the present treaty of joint occupation for twenty years longer, and that of the senator from New Jersey [Mr. Miller] against the policy of sending our citizens to settle in Oregon at all—in my opinion, it will be utterly vain even to hope

for the conclusion of any treaty. Great Britain will be glad to enjoy all the benefits of her present position for another quarter of a century.

But if the notice were once given—if it were thus rendered certain that the present treaty must expire within a year, the British government would then begin to view the subject in a serious light. They would then apply themselves in earnest to the settlement of the question. We owe it to Great Britain—we owe it to our own country, to render this a serious question; not by offering threats, for these would be unworthy of ourselves, and could produce no effect upon such a power—but by insisting, in a firm but respectful tone, that the dispute which has so long existed between the two nations must now be terminated. When that power shall discover that we are at last in earnest and determined to urge the controversy to a conclusion, then, and not till then, will she pay that degree of respect to our rights and to our remonstrances "which the proud soul ne'er pays but to the proud."

It is not by abandoning our rights—it is not by giving to Great Britain another quarter of a century for negotiation, that we can ever secure to ourselves our own territory now in her possession. Until the notice shall be given—judging from the selfish principles which unfortunately too much influence the conduct of nations, as well as individuals—there will be no adjustment of the boundary question. If, upon the mere arrival of a British minister, (and he not a special minister like Lord Ashburton, as had been rumored, but a resident envoy extraordinary,) we shall a second time arrest our proceedings, which had been commenced long before his name was mentioned for this appointment, and greet him with the declaration that we are willing to wait for twenty years longer, then a treaty will become impossible.

My second proposition is, that to arrest all legislative action at the present moment, and under existing circumstances, would evince a tame and subservient spirit on our part towards Great Britain, which, so far from conciliating, would only encourage her to persevere in her unjust demands. I would ask, when has England, in her foreign policy throughout her long and eventful history, ever failed to make one concession the ground for demanding another? A firm and determined spirit is necessary to obtain from her both respect and justice.

The senator from Massachusetts has informed us that "this

controversy had not heretofore been considered as very urgent;" and has stated that "if we had waited so quietly for twenty-six years for the adjustment of this question, he did not see why we should not wait six months longer, instead of adopting this measure now." But is not the senator mistaken in supposing that we had waited thus quietly for so long a period? The question has not slept for a quarter of a century. So far from this, that from the day when Lewis and Clark, in 1805, crossed the Rocky mountains, until the present hour, we have been incessantly agitating the subject, and urging our title to the territory in dispute. I requested the executive secretary of the Senate to hunt up all the volumes containing public documents on this subject. I am sorry that I omitted to count the number of these volumes; but I feel confident they exceeded twenty. Ever since I have occupied a seat in Congress, (which is now more than twenty years,) the American people, by their senators and representatives, have been constantly urging the settlement of this question, but urging it in vain. We were in possession of the mouth of the Columbia before the late war; and this possession, of which Great Britain had deprived us by force, was restored to us after the peace under the treaty of Ghent. In an evil hour, under the treaty of 1818, we voluntarily surrendered to that power a joint occupation with ourselves of our own territory. The British government is perfectly satisfied with this treaty; and whilst it remains in force, we may urge and complain until doomsday without effect. From the time when Governor Floyd of Virginia, who has for many years been gathered to his fathers, introduced his resolution in the other House, on the 10th December, 1821, relative to the occupation of the Columbia river and territory of the United States adjacent thereto, the subject has, in some form or other, been brought before each successive Congress. Since then, we have had numerous Presidents' messages and reports of committees, and other documents, in favor of asserting our title by some act of possession; but all without any successful result.

But even if we had been sleeping over our rights for six and twenty years, I ask the senator, is this any reason why we should slumber over them twenty years longer? Is it not rather a convincing argument to urge us at last now to go to work in earnest, and repair the evils consequent on our long delay? But the effect of the argument of the senator will still be—"a little more sleep; a little more slumber; a little more folding of the hands to sleep;" whilst Great Britain continues in the actual possession

of the country, and has evinced a fixed determination to hold it as long as possible.

My lamented friend, the late senator from Missouri, [Dr. Linn,] who sat by my side in this chamber for several years before his death, made the assertion of our claims to this territory the chief business of his useful and honorable life. He thought that, when Lord Ashburton came to the country, the propitious moment had at length arrived for the settlement of this long-agitated and dangerous question. His lordship was hailed as the minister of peace and as the harbinger of a new era of good feeling between the two nations. Mr. Webster himself proclaimed that this special minister was intrusted with full power to settle all our questions in dispute with Great Britain. We all recollect with what enthusiasm his advent was hailed. Dr. Linn, upon the advice of his friends, (myself amongst the number,) ceased to urge the Oregon question on this floor, as soon as the negotiation commenced, in the full and confident expectation that it would be finally settled by any treaty which might be concluded. I hope the Senate will pardon me for saying a few words here in reference to my deceased friend. In him were combined the most opposite and the most admirable qualities of our nature, in more striking contrast than I have ever witnessed in any other man. Gentle as the lamb, and mild as the zephyr, he was yet brave as the lion. "He had a heart for pity, and a hand open as day for melting charity;" but yet "was like the mustering thunder when provoked." Human suffering always drew from him the tear of sympathy, and his active benevolence never rested until he had attempted to relieve the sufferer. He was one of the ablest men who has held a seat in the Senate in my day, and yet he was so modest and unpretending that he never seemed sensible of his own ability, and would blush at the faintest praise. If the first settlers who shall boldly establish themselves in Oregon under the ample folds of the American flag—not those who may "enter the territory prudently and silently"—do not call their first city after his name, they will deserve the brand of ingratitude. I have never known a man—a stranger to my own blood—in the whole course of my life, to whom I was more ardently attached.

In common with us all, Dr. Linn was firmly convinced that the Oregon question would have been settled by the late treaty. There was then every reason confidently to anticipate such a result. Lord Ashburton himself proclaimed that he had been in-

trusted with full powers to settle all the disputed questions; and, from the condition of England at that moment, no man could have doubted her desire to remove all causes of dissension between the two countries. Her annual revenue was insufficient for her annual expenditure; she had suffered serious reverses in the East, where she was waging two expensive and bloody wars; a large portion of her population at home appeared to be rapidly approaching a state of open rebellion from misery and starvation; and France, her ancient and powerful enemy, had indignantly refused to ratify the quintuple treaty granting her the right of search on the African coast. This, I repeat, was the propitious moment to settle all our difficulties; but it was not improved, and I fear it has passed away forever. Who could then have anticipated that, under all these favorable circumstances, but a single question would be settled, and this the northeastern boundary? It was not in the confiding nature of Dr. Linn to anticipate such a catastrophe. Some of us, at least, can recollect with what astonishment and mortification we first learned that the Oregon question had not been settled by the treaty. Dr. Linn instantly gave notice that he would press his bill for the organization and settlement of the territory; and this bill passed the Senate at the last session. Are then the United States again to strike their flag? are all proceedings upon this subject again to be arrested in the Senate, on the mere arrival of another minister from England? Although her subjects had been in the exclusive possession of the whole territory from the day when the Hudson Bay company first set foot upon it until 1842, yet Congress at once ceased to prosecute our claim on the arrival of Lord Ashburton. Should we pursue a similar course on the arrival of Mr. Pakenham, is it not morally certain that the new negotiation will produce similar results? This is not the best mode of treating with England. She ought not to expect any such concessions from us. If we desire to obtain justice from her or any other nation, we must assert our rights in a proper manner. If we do this, she will have little encouragement to hope for longer delay; if we do not, judging from her course in the Ashburton negotiation, there is not the least probability of the settlement of the question. We have already surrendered to her our ancient highland boundary for which our fathers fought; these highlands which overlook and command Quebec, the seat of her empire in North America. We have placed her in possession of the highland passes which lead into the very heart of our own country.

We have yielded to her the very positions on our frontier which the Duke of Wellington and a board of British officers deemed indispensable for the defence of her North American possessions. She has obtained all this from our government; and what is worse than all,—what disgraces us more than all before the world—no, sir, I will not apply the term disgrace to my country,—Lord Ashburton had in his pocket Mitchell's map of 1753, taken from the private library of George the Third, which proved the justice of our claim. On that map was traced, by the hand of the sovereign himself, the treaty line according to our claim; and the fact was thus conclusively established, that England was not entitled to a foot of the territory in dispute.

Mr. B. here read from a newspaper the following extracts from the speeches of Sir Robert Peel and Lord Brougham—the first delivered in the House of Commons on the 28th March, 1843, and the second in the House of Lords on the 7th April following.

Sir Robert Peel. But there is still another map. Here, in this country—in the library of the late King—was deposited a map by Mitchell, of the date 1753. That map was in the possession of the late King; and it was also in possession of the noble lord; but he did not communicate its contents to Mr. Webster. [Hear, hear.] It is marked by a broad red line; and on that line is written "Boundary as described by our negotiator, Mr. Oswald;" and that line follows the claim of the United States. [Hear, hear.] That map was on an extended scale. It was in possession of the late King, who was particularly curious in relation to geographical inquiries. On that map, I repeat, is placed the boundary line—that claimed by the United States—and on four different places on that line, "Boundary as described by our negotiator, Mr. Oswald."

Lord Brougham also spoke upon this question, and treated the idea with ridicule and scorn, that Lord Ashburton was bound to show this map to Mr. Webster. His lordship thinks that, from the handwriting along the red line on the face of the map, describing the American, and not the British claim, "it is the handwriting of George III. himself." And after stating that the library of George III., by the munificence of George IV., was given to the British Museum, he says:

This map must have been there; but it is a curious circumstance that it is not there now. [Laughter.] I suppose it must have been taken out of the British Museum for the purpose of being sent over to my noble friend in America; [hear, hear, and laughter;] and which, according to the new doctrines of diplomacy, he was bound to have taken over with him, to show that he had no case—that he had not a leg to stand upon.

And again:

> But, somehow or other, that map, which entirely destroys our contentions, and gives all to the Americans, has been removed from the British Museum, and is now to be found at the Foreign Office.

"The late King (says Robert Peel) was particularly curious in relation to geographical inquiries." No doubt he had received from Mr. Oswald himself (the British negotiator of the provisional treaty of peace) the information necessary to enable him to mark the boundary line between his remaining provinces in North America and the United States according to that treaty. Justly has Lord Brougham declared, that if this map had been produced, the British government would not have had a leg to stand upon. It would have entirely destroyed all contentions, and given all to the Americans. I shall not apply any epithets to such conduct. The subject is too grave for the use of epithets. But this I shall say, at one moment during the northeastern boundary dispute, that government was ready to apply the match to the cannon, and go to war in defence of a claim which they themselves knew, under the hand of their late sovereign, was totally destitute of foundation.

I shall repeat, without comment, what Lord Ashburton said in reference to the British title, during the negotiation. He stated that he was the friend of the United States—that he had endeavored to avert the late war with England; which was true, and was highly creditable to him. But, after all, with the map in his pocket, he declared, in his letter to Mr. Webster of the 21st June, 1842, as follows:

> I will only here add the most solemn assurance, which I would not lightly make, that, after a long and careful examination of all the arguments and inferences, direct and circumstantial, bearing on the whole of this truly difficult question, it is my settled conviction that it was the intention of the parties to the treaty of peace of 1783, however imperfectly those intentions may have been executed, to leave to Great Britain, by their description of boundaries, the whole of the waters of the river St. John.—Page 40.

And yet, after all this, we are admonished by senators to be again quiet and patient, as we were whilst the negotiations with Lord Ashburton were pending, and await the result. If we should continue to follow this advice, the question will never be settled.

But, says the senator from Massachusetts, [Mr. Choate,] it would be disrespectful to the government of Great Britain to give the notice, immediately after the arrival of their minister

in this country. Disrespectful to give a notice expressly provided for by the terms of the treaty itself? Disrespectful, when this notice will produce no sudden and abrupt termination of the treaty, but will leave it in force for another whole year? I ask, is not this period long enough to complete a negotiation which was commenced twenty-five years ago? My feelings may be less sensitive than those of other gentlemen; and this may be the reason why I cannot conceive how the British government could, by possibility, consider the notice disrespectful. Their sensibility must be extreme to take offence at a measure which, by their own solemn agreement, we might have adopted at any time within the last sixteen years. If, however, they should take offence at our adoption of the very course pointed out by their own solemn treaty, let them, in Heaven's name, be offended. I shall regret it; but much more shall I regret the long delay in the adjustment of this question, which will inevitably result from our refusal to give the notice. It will never be settled until we convince Great Britain that we are in earnest. She will proceed in extending and engrossing the trade of the territory so long as we shall consent to leave her in quiet possession, patiently awaiting the results of a negotiation. The longer the delay, the more essentially will her interests be promoted.

Here, sir, I might with propriety close my argument, having already said all which appropriately belongs to the resolution under discussion; but I feel myself bound to examine some of the positions taken by the senator from Massachusetts. In the opinion of that senator, even if no treaty should be concluded by Mr. Pakenham, it would be wise to continue the existing convention, unless circumstances shall change. He believes that, "in the course of twenty years," an agricultural population from the United States would gradually and peacefully spread itself over the Territory of Oregon—"the hunters of the Hudson Bay company would all pass off to the desert, where their objects of pursuit were found, and the country would, without a struggle, be ours." England had no intention of colonizing Oregon, and the senator saw nothing in her policy which would incline her to interpose obstacles to this natural course of events. "No doubt, if we provoked and made war upon her, she would do it; but if we would but enter the territory prudently and silently, with the ploughshare and the pruning hook, he could not see the least probability that she would interfere to prevent us." If we should send hunters or trappers there to interfere with their monopoly,

the Hudson Bay company might take offence. "But should we go there *bona fide* as farmers, wishing only to till the soil, he had no doubt that, in twenty years, that great hunting corporation, like one of Ossian's ghosts, would roll itself off to the north and northeast, and seek that great desert which was adapted to its pursuits and objects." England had no intention of colonizing the territory; and, to use his own strong figure, "no more idea of establishing an agricultural colony in Oregon than she had of ploughing and planting the dome of St. Paul's."

I shall briefly examine these positions of the honorable senator, and, when subjected to the scrutiny of sober reason, to what do they amount? What is their intrinsic value? They are poetry, and nothing but poetry—expressed, to be sure, with that splendor of diction for which the senator is so highly distinguished, and which, in itself, possesses so much of poetic beauty. But, after all, they are mere poetry. What, in fact, has the senator recommended? A policy which will not stand the test of the slightest examination—a policy to which such a corporation as the British Hudson Bay company will never submit. We are to steal into Oregon quietly, with the ploughshare and the pruning hook; and then, notwithstanding by our agricultural settlements we shall most effectually destroy and drive away all the game which forms the very substance of that company's wealth, the company will take no offence, and interpose neither resistance nor obstacle to our proceeding! Not at all; we may progress peacefully and prudently, until we shall have converted all their hunting grounds into fruitful fields; and then that ancient and powerful monopoly will retire like one of Ossian's ghosts, rolling itself off into its kindred deserts of the North! It is true that this mercenary and blood-stained corporation has already murdered between four and five hundred of our citizens, who ventured into Oregon for the purpose merely of sharing with them the hunting and trapping of the beaver; yet they will not take the least umbrage, if we shall enter the territory with plough and pruning hook, in such numbers as to destroy their hunting and trapping altogether! These unfortunate men did but attempt to hunt the beaver, as they had a right to do under the treaty of joint occupation, and it cost them their lives; but yet, if all the beaver and other game shall be driven from the country by our settlements, this will all be very well, and the company will never raise a finger to prevent its own destruction! Should this be its course, the Hudson Bay company will prove itself to be the most

disinterested and magnanimous monopoly of which I have ever heard or read in all my life. Trading companies are almost universally governed by an exclusive view to their own interest. To suppose for a moment that this vast trading association, with all its hunters and dependants, will gradually retire, with their faces, I presume, to our advancing settlements, is one of the most extraordinary notions that I have heard in this chamber. And this is the mode whereby the senator will preserve the peace between the two nations, and at the same time acquire possession of the territory!

Now, Mr. President, I assert that Great Britain has never manifested a more determined purpose, in the whole course of her eventful history, than to hold and retain the northern bank of the Columbia river, with a harbor at its mouth. Why, sir, she already affects to consider the northern bank of this river as her own, whilst she graciously concedes the southern as belonging to the United States. In Oregon, these banks of the stream are familiarly and currently spoken of as "the British side" and "the American side." Let any of our citizens attempt to make a settlement north of that river, and we shall soon learn his fate; we shall soon hear, if nothing worse, that he has been driven away. I believe that but one American settlement has ever been attempted north of the Columbia; and this is a small Catholic establishment which nobody would ever think of disturbing. In this course, Great Britain displays her deep policy and her settled purpose. Thrice has she offered to divide the territory, and make the Columbia the line between the two nations, and thrice has her offer been rejected. It is now evidently her design to make the possession of the territory conform to her proposition for its division, yielding the southern bank to us, and retaining the northern for herself; and every moment that we submit to this allotment will but serve to strengthen her claim.

Even when Astoria was restored to the United States, in October, 1818, under the treaty of Ghent, Great Britain, in opposition to this her own solemn act, protested that she had the title to the territory, though it does not appear that this protest was ever, in point of fact, communicated to our government. During the progress of the negotiation in 1818, which preceded the existing treaty of joint occupancy, our government proposed that the parallel of forty-nine degrees of north latitude, which is the boundary of the two countries east of the Rocky mountains, should be extended as their boundary west to the Pacific ocean.

What was the answer? "The British negotiators did not make any formal proposition for a boundary, but intimated that the river itself was the most convenient that could be adopted; and that they would not agree to any that did not give them the harbor at the mouth of the river in common with the United States." Has Great Britain ever departed from this declaration? No, sir, never. On the contrary, the assertion of her claim has become stronger and stronger with each succeeding year.

This subject was again discussed in the negotiation of 1824. Mr. Rush again asserted our title to the 49th degree of latitude, in strong and decided terms; but it was as strongly and decidedly opposed by the British plenipotentiaries. All that they would consent to do was to run the 49th parallel of latitude west, from the summit of the Rocky mountains, until it should strike the northern branch of the Columbia, and from thence down the course of the river to the ocean. This proposition was promptly rejected by Mr. Rush; and in writing home to the Department of State, he stated that they had declared more than once, at the closing hours of the negotiation. "*that the boundary marked out in their own proposal, was one from which the government of the United States must not expect Great Britain to depart.*"

Again, for the third time, previously to the treaty of 1827, we repeated our offer to divide the country with Great Britain by the forty-ninth parallel of latitude; and she again rejected our proposition; and again offered to make the river the boundary, the navigation of it to remain forever free and common to both nations. In making this offer, her negotiators declared that there could be no reciprocal withdrawal from actual occupation, as there was not, and never had been, a single American citizen settled north of the Columbia. In refusing our proposition, they used language still stronger than they had ever done before; again declaring that it must not be expected they would ever relinquish the claim which they had asserted.

Thus it appears that, in 1818, we offered to establish the 49th degree as our northern boundary; in 1824 we repeated the offer; and in 1827 we again repeated the same proposal; but on each occasion, it was absolutely refused. Our minister, in obedience to his instructions, after this last refusal, solemnly declared to the British plenipotentiaries that the American Government would never thereafter hold itself bound to agree to the line which had been proposed and rejected; but would consider itself at liberty

to contend for the full extent of the claims of the United States. The British plenipotentiaries made a similar declaration, in terms equally strong, that they would never consider the British government bound to agree to the line which they had proposed; and these mutual protests were recorded in due form on the protocols of the negotiation. Thus, thank Heaven, we are now relieved from the embarrassing position in which we had placed ourselves, and are no longer trammeled by our former propositions. We shall hereafter assert our claim to the full extent of our right. We shall no longer limit ourselves to the 49th parallel of latitude, but shall insist upon extending our boundary north to 54° 40′, which is the treaty line between Russia and the United States.

To suppose that Great Britain, after these solemn assertions of her title, and these strong declarations that she would never abandon it, will voluntarily and quietly retire from the possession of the whole northwest coast of America; that she will surrender the straits of De Fuca, the only good harbor on that coast, between the 49th degree of latitude and Saint Francisco, in latitude 37° 48′; that she will yield up this entire territory, the possession of which can alone secure to her the command of the north Pacific and the trade of eastern Asia, and, through this trade, her influence over China; that she will abandon her valuable fur trade, and all this fertile and salubrious country, and fly to the northern deserts, before the advance of our farmers, with their ploughshares and pruning hooks, whom we are afraid to cover with the protection of our flag, lest this might give her offence;—to suppose all this, is surely to imagine the most impossible of all impossibilities. From the day that Sir Alexander McKenzie first set his foot upon the territory, until this very day, the proceedings of Great Britain in regard to the region west of the Rocky mountains have been uniform and consistent. She has never faltered for a single moment in her course. She has proclaimed before the world her right to settle and colonize it, and from this claim she has never varied or departed; and yet we are now to be told that she will, all of a sudden, change her policy, and retire before the American squatters who may find their way into Oregon without law, without a government, and without protection!

And all this, too, in the very face of what occurred during the negotiation of the Ashburton treaty. Our northwestern boundary not only forms no part of this treaty, but that important subject is not even alluded to throughout the whole correspond-

ence. We had a correspondence between Lord Ashburton and Mr. Webster on the Creole question, on the Caroline question, on the doctrine of impressment, and on the right of search; but it appears that this Oregon question was found to be so utterly incapable of adjustment, that even the attempt was entirely abandoned. We are told by the President, in his message transmitting the treaty, that, "after sundry informal communications with the British minister upon the subject of the claims of the two countries to territory west of the Rocky mountains, so little probability was found to exist of coming to any agreement on that subject at present, that it was not thought expedient to make it one of the subjects of formal negotiation, to be entered upon between this government and the British minister, as part of his duties under his special mission." Thus it appears that, at so late a period as the year 1842, the claims of Great Britain were found to be so utterly irreconcilable with the just rights of the United States, that all attempts to adjust the question by treaty were abandoned in despair.

Had I been the negotiator of the late treaty, I should have endeavored to melt the iron heart of his lordship. I would have said to him: "You have obtained all that your heart can desire in the adjustment of the northeastern boundary; will you, then, return home without settling any of the other important questions in dispute? Nay, more, will you leave even the boundary question but half settled? At least, let us adjust the whole question of boundary—that in the northwest as well as the northeast. Permanent peace and friendship between the two nations is the ardent desire of us both; why, then, leave a question unsettled which is of much greater importance, and consequently of a much more dangerous character, than the northeastern boundary—a question which contains within itself elements that may produce war at no distant period? This is the propitious moment for ending all our difficulties, and commencing a new era of good feeling between the two countries. Let us not suffer it to escape unimproved—to pass away, it may be, never to return."

What the nature of these "informal communications with the British minister" may have been in relation to the Oregon Territory, will probably never be known to the people of this country. No protocol—no record—was made of the conferences of the negotiators. Their tracks were traced upon the sand, and the returning tide has effaced them forever. We shall never know what passed between them on this subject, unless Lord

Ashburton's despatches to his own government shall be published, which is not at all probable. I have no doubt they contain a full record of the conferences; because it is the duty of every responsible foreign minister to communicate to his own government a perfect history of all that occurs throughout his negotiations. I should be exceedingly curious to know what were these extravagant pretensions of the British government in regard to Oregon, which rendered all negotiation on the subject impossible.

It is more than probable that Mr. Webster again offered to Lord Ashburton to establish the forty-ninth parallel of latitude as the boundary between the two nations west of the Rocky mountains. I infer this from the fact that the senator from Massachusetts, [Mr. Choate,] in reply to the senator from Missouri, [Mr. Benton,] at the last session of Congress, had assured him that Mr. Webster had never "offered a boundary line south of the parallel of forty-nine;" that he [Mr. Choate] "was authorized and desired to declare that, in no communication, formal or informal, was such an offer made, and none such was ever meditated." When it had thus been authoritatively and solemnly declared that Mr. Webster had never offered to establish any boundary south of forty-nine, (which I was glad to hear,) it appears to me to be a legitimate inference that he had offered to establish that parallel as the boundary. The senator from Massachusetts can, however, doubtless explain what is the true state of the case.

Here Mr. Choate asked whether Mr. Buchanan desired him to explain now, or wait till the senator should have concluded his remarks.

Mr. Buchanan preferring the latter course, Mr. Choate promised to make the explanation, and retained his seat.

But the honorable gentleman has assured the Senate that Great Britain does not intend to colonize in Oregon—no, no more than she intends to colonize the dome of St. Paul's. And what are the arguments by which he has attempted to support this position? Why, the senator has carefully examined all the British projects for colonization since the year 1826; and he finds that whilst they have been establishing colonies everywhere else around the globe, not a word has ever been hinted in relation to a colony in Oregon. And does not the senator perceive how very easy it is to answer such an argument? Great Britain could not have colonized in Oregon without violating her own plighted faith to the Hudson Bay company. In December, 1821, she had leased to that company the whole of this territory for the term of

twenty-one years, and she could not have set her foot upon it without infringing their chartered rights.

What, sir! Great Britain not colonize? She must colonize. This is the indispensable condition of her existence. She has utterly failed to impress upon other nations her theoretical doctrines of free trade; whilst she excludes from her own ports every foreign article which she can herself produce in sufficient quantities to supply the demand of her own people. The nations of the continent of Europe are now all manufacturing for themselves. Their markets are nearly all closed against her. She now enjoys nothing like free trade with any of these nations. We are now, I believe, the only civilized people on earth where free trade doctrines prevail to any great extent. The Zoll-Verein, or commercial league of Germany, have recently adopted a tariff of duties which must effectually exclude her manufactures from their ports. The whole world are fast adopting Bonaparte's continental system against her; and all the nations of Christendom seem determined to encourage their own labor and to manufacture for themselves. Under these circumstances, Great Britain, in her own defence, must colonize. She must provide a market of her own for her manufactures, or inevitable destruction awaits them. Wherever she can acquire earth enough to plant a man who will purchase and consume her productions,—her cotton, her woollen, and her iron fabrics,—there she must acquire it for the purpose of extending her home market. She cannot exist without colonization. This is the very law of her political being. To imagine, therefore, that she is about to abandon the claim to colonize Oregon without a struggle, is to imagine what seems to me to be very strange, not to say impossible. It is very true that she has not yet, on her own account, commenced the process of colonization in that region: but judging from the most authentic facts, we can no longer doubt what are her intentions.

I have already stated that, in 1821, Great Britain had leased to the Hudson Bay company the Territory of Oregon for the term of twenty-one years. On the 30th May, 1838, this lease was extended by a new lease for another period of twenty-one years from its date. The existence of this last grant was entirely unknown to me until within the last few days. When I mentioned the subject in conversation to the senator from Massachusetts, he informed me that he had seen the new lease, and kindly offered to procure it for me, remarking at the same time that he

had intended to mention the fact in the course of his remarks; but had omitted to do so in the hurry of speaking. That such was his intention I have not the least reason to doubt.

The correspondence of the company's agents with the British government immediately previous to the last lease, is in the highest degree worthy of the attention and solemn consideration of the Senate.

In this correspondence with Lord Glenelg, they recounted all that the company had done for the British government as a reason why their license ought to be extended. They boast of having succeeded, "after a severe and expensive competition, in establishing these settlements, and obtaining a decided superiority, if not an exclusive enjoyment of the trade—the Americans having almost withdrawn from the coast." They inform his lordship that "the company now occupy the country between the Rocky mountains and the Pacific by six permanent establishments on the coast, sixteen in the interior country, besides several migratory and hunting parties; and they maintain a marine of six armed vessels—one of them a steam vessel—on the coast." At each of these establishments, I believe, indeed I may say that we know, they have erected stockade forts; although if this fact be mentioned in the correspondence, it has escaped my observation. In the neighborhood of Fort Vancouver, which is their principal establishment, they state the fact, that "they have large pasture and grain farms, affording most abundantly every species of agricultural produce, and maintaining large herds of stock of every description; these have been gradually established; and it is the intention of the company still further, not only to augment and increase them, to establish an export trade in wool, tallow, hides, and other agricultural produce, but to encourage the settlement of their retired servants and other emigrants under their protection." They represent "the soil, climate, and other circumstances of the country" to be "as much, if not more, adapted to agricultural pursuits than any other spot in America." And they express the confident hope that, "with care and protection, the *British dominion may not only be preserved in this country, which it has been so much the wish of Russia and America to occupy to the exclusion of British subjects, but British interest and British influence may be maintained as paramount in this interesting part of the coast of the Pacific.*"

The extracts which I have just read are from the letter of J. Pelly, Esq., governor of the Hudson Bay company, to Lord

Glenelg, the British colonial Secretary of State, dated at London on the 10th February, 1837, applying for an extension of their lease. Among the papers submitted to the British government upon this occasion, is a letter from George Simpson, Esq., to Governor Pelly, dated at London on the 1st February, 1837. Mr. Simpson is the superintendent of the company's affairs in North America; and, from his knowledge of the country, any information which he communicates is entitled to the highest consideration.

I beg the Senate to ponder well what he says in this letter in regard to that portion of Oregon between the Columbia river and the 49th degree of north latitude, which the British government have so often expressed their determination to hold; and then ask themselves whether they can, for a moment, suppose that Great Britain will voluntarily recede from its possession before our agricultural population:

> The country (says Mr. Simpson) situated between the northern bank of the Columbia river, which empties itself into the Pacific, in latitude 46 deg. 20 min., and the southern bank of Frazer's river, which empties itself into the Gulf of Georgia, in latitude 49 deg., is remarkable for the salubrity of its climate and excellence of its soil, and possesses, within the straits of De Fuca, some of the finest harbors in the world, being protected from the weight of the Pacific by Vancouver's and other islands. To the southward of the straits of De Fuca, situated in latitude 48 deg. 37 min., there is no good harbor nearer than the bay of St. Francisco, in latitude 37 deg. 48 min., as the broad, shifting bar off the mouth of the Columbia, and the tortuous channel through it, render the entrance of that river a very dangerous navigation even to vessels of small draft of water.
>
> The possession of that country to Great Britain may become an object of very great importance, and we are strengthening their claim to it (independent of the claim of prior discovery and occupation for the purpose of Indian trade) by forming the nucleus of a colony through the establishment of farms, and the settlement of some of our retiring officers and servants as agriculturists.

These communications, from the governor and superintendent of the Hudson Bay company, urging an extension of their license or lease, were favorably received by the British government; but Lord Glenelg informs them, in his reply, that the government must reserve to itself, in the new grant, the privilege of establishing colonies on any portion of the territory. To use his own language, "it will be indispensable to introduce into the new charter such conditions as may enable her Majesty to grant, *for the purpose of settlement or colonization,* any of the lands comprised in it." This was the express condition of the grant;

and, upon these terms, the company accepted its new license. The reservation of the right to colonize is written in the clearest and strongest terms upon the face of this charter. Need I add another word for the purpose of proving that the British government do not intend to abandon this country, but that it is their purpose to establish colonies in it? This is an important fact, which proves beyond a doubt that we must speedily manifest a determination to assert our rights, and make a stand for the portion of this territory north of the Columbia, in a different manner from that proposed by the senator from Massachusetts, or consent to abandon it forever.

But the senator from Massachusetts has informed us that the present treaty of joint occupation may continue for an indefinite period—"ten thousand years"—without being in the least degree prejudicial to our title; but that the moment we shall give notice, and break up the convention, the adverse possession of Great Britain will then commence, and her claims will grow stronger with each succeeding year. I admit, in theory, the soundness of the proposition, that whilst the treaty continues, British possession cannot injure our title. But does England admit the correctness of this our interpretation of the treaty? Far, very far from it. Their construction of this treaty, and their conduct under its provisions, have always been widely different from our own. We have understood it in one manner, and they in another entirely opposite.

Previous to the treaty of 1818, Messrs. Gallatin and Rush, in their correspondence with the plenipotentiaries of the British government, proposed that the country on the northwest coast of America claimed by either party should "*be opened for the purposes of trade* to the inhabitants of both countries." Now, if these words "for the purposes of trade" had been inserted in the treaty itself, no room would have been left for British cavil; but unfortunately they were omitted; and the treaty declares generally that the country shall be open to the vessels, citizens, and subjects of the two powers, without defining or limiting the purposes for which it shall be opened. And how have the British government interpreted this treaty? Precisely as though it had been expressly agreed that both parties, instead of being confined to hunting, fishing, and trading with the natives, were left at perfect liberty to settle and colonize any portions of the country they might think proper. Immediately after its conclusion, the British government fell back upon their Nootka Sound convention of

1790 with Spain; and, under it, (most unjustly, it is true,) claimed the right, not only for themselves but for all the nations of the earth, to colonize the northwest coast of America at pleasure. "Great Britain," say her plenipotentiaries, "claims no exclusive sovereignty over any portion of that territory." What, then, does she claim? To use the language of these plenipotentiaries in 1824, "they consider the unoccupied parts of America just as much open as heretofore to colonization by Great Britain, as well as by other European powers, agreeably to the [Nootka Sound] convention of 1790, between the British and Spanish governments, and that the United States would have no right whatever to take umbrage at the establishment of new colonies from Europe in any such parts of the American continent." And they felt themselves more imperatively bound to make this declaration, as the claim of the American minister "respecting the territory watered by the river Columbia and its tributary streams, besides being essentially objectionable in its general bearing, *had the effect of interfering directly with the actual rights of Great Britain, derived from use, occupancy, and settlement.*"

Thus, sir, you perceive that the British government openly and boldly, twenty years ago, notwithstanding the existing treaty, claimed the right to settle and colonize the country as though it were entirely without an owner; and, if this claim had been well founded, then it would follow irresistibly that they have a right to retain the possession of the colonies which they had a right to establish. It is upon this principle that they speak of the actual rights which they had acquired so long ago as 1824, by "use, occupancy, and settlement." What, then, becomes of the senator's argument, that the present treaty may continue for an indefinite period without being prejudicial to our title? I admit that it is an argument true and just in theory; but the opposite party, so far from admitting its force, entirely repels it. Under their interpretation of the treaty, they claim the right to plant colonies; and if this right existed, it could not be said that Great Britain would acquire no title to the colonies which she had established. It is true that, under any fair and just construction of the existing treaty, she has no right to colonize the country; but she claims this right. She insists upon it; and, in the face of all our protestations, she has gone on, through the agency of the Hudson Bay company, to colonize to a considerable extent.

And what has been our miserable policy in return? We had a clear right to re-establish our ancient fort at the mouth of

the Columbia; but this might violate the treaty, and offend England, and although she has erected some thirty forts within the territory, we thought it best to abstain. It was proposed to establish five military posts on the way to Oregon, for the purpose of protecting and facilitating the passage of our settlers over the Rocky mountains: but no; this must not be done; it would be bad faith; and this, although England, through the agency of the Hudson Bay company, has been making settlements all over the country. Whenever we propose to do anything for the purpose of meeting and countervailing her advances, it is decried as a violation of the treaty; and now, at the last moment, the same doctrine is not only held, but, according to some senators, it is deemed wholly inexpedient for us to settle Oregon; and, as a necessary consequence, I suppose we should permit Great Britain to retain her possession, without a struggle. We have been sleeping over our just rights, whilst she has been pushing her unjust claims with the utmost energy. It is a strange spectacle to witness how we are forever holding back, for fear of violating the treaty, whilst England is rushing forward to obtain and to keep the country. She has established a government there; she has commissioned justices of the peace; she has erected civil tribunals; she has extended the jurisdiction of her laws over the whole territory; she has established forts; she has built ships, erected mills, commenced permanent settlements, and cultivated extensive farms; and, during this whole period, has openly proclaimed her right to do all this, notwithstanding the treaty. And yet, although we have witnessed all these things, we must not move a step, or even lift our hand, because it would be a violation of the treaty! They consider the country as open to settlement, and, in 1824, refused to accept our proposition to make the 49th degree of latitude the boundary, because this would conflict with their actual rights derived from use, occupation, and settlement; whilst we have carefully refrained from performing any act whatever to encourage the settlement of the country. Her claim to it rests upon settlement and colonization; whilst Congress refuses altogether to settle or to colonize, lest this might violate the very treaty under which she has been all the time acting.

In the face of these claims so boldly asserted by Great Britain, it has appeared to me wonderful that the treaty of joint occupation should have been continued in 1827. In the conferences previous to this treaty of 1827, the British plenipotentiaries made a still bolder declaration than they had ever done before;—

whilst they admit, in express terms, our equal right with themselves to settle the country—a right which we have refrained from exercising notwithstanding this admission, lest, forsooth, it might violate the treaty. They inform us of the numerous settlements and trading posts established by the subjects of Great Britain within the Territory; and, as if to taunt us with our want of energy, they say that in the whole territory, the citizens of the United States have not a single settlement or trading post. They again refer to their right to settle and colonize under the convention of Nootka Sound, and say that this right has been peaceably exercised ever since the date of that convention, for a period of nearly forty years. "Under that convention," say they, "valuable British interests have grown up in those countries. It is fully admitted *that the United States possess the same rights, although they have been exercised by them only in a single instance, and have not, since the year* 1813, *been exercised at all.* But beyond these rights, they possess none." And yet we have been ever since deliberating in cold debate, whether we could make settlements in Oregon without violating the treaty and giving offence to Great Britain!

They inform us further, that "to the interests and establishments which British industry and enterprise have created, Great Britain owes protection. That protection will be given, both as regards settlement and freedom of trade and navigation, with every intention not to infringe the co-ordinate rights of the United States." Thus, sir, you perceive that Great Britain rests her claims to the country solely upon the exercise of the assumed right to settle and colonize it, and her duty to afford protection to the establishments which have been made by British subjects under this claim. And yet, in the face of all this, senators gravely express serious doubts whether we can, in like manner, send our people to Oregon and afford them the protection of a government and laws, without a violation of the treaty! I think I have proved conclusively that the senator from Massachusetts is entirely mistaken if he supposes that England will ever admit that her possession, during the continuance of the treaty of joint occupation, would have no effect in strengthening her title to the territory in dispute. She has maintained the contrary doctrine on all occasions, and in all forms, as if she intended a solemn notification to us, and to the whole world, that she would hold on to her alleged right of possession, and never consent to abandon it.

I am glad to say that I now approach the last point of my

argument. The senator from Massachusetts [Mr. Choate] has contended that as certainly as we give the notice to annul the existing convention, so certainly is war inevitable at the end of the year, unless a treaty should in the mean time be concluded; and he would have us at once begin to prepare for war. I suppose the senator means that we ought now to be raising armies, embodying western volunteers, and sending our sharp shooters across the mountains; and he thinks it not impossible that Great Britain, in anticipation of the event, may now be collecting cannon at the Sandwich Islands to fortify the mouth of the Columbia. Yes, sir, war is inevitable! Now I am most firmly convinced that, so far from all this, the danger of war is to be found in pursuing the opposite course, and refusing to give the notice proposed. What can any reasonable man expect but war, if we permit our people to pass into Oregon by thousands annually, in the face of a great hunting corporation, like the Hudson Bay company, without either the protection or restraint of laws? This company are in possession of the whole region, and have erected fortifications in every part of it. The danger of war results from a sudden outbreak, under such circumstances. The two governments have no disposition to go to war with each other; they are not so mad as to desire it; but they may be suddenly forced into hostilities by the cupidity and rash violence of these people, thrown together under circumstances so inauspicious to peace. To prevent this, our obvious course of policy is to send over the mountains a civil government—to send our laws—to send the shield and protection of our sovereignty to our countrymen there, and the wholesome restraints necessary to prevent them from avenging their wrongs by their own right arm. This is the course which prudence dictates to prevent those sudden and dangerous outbreaks which must otherwise be inevitable. The danger lies here. If you leave them to themselves, the first crack of the rifle lawlessly used may be the signal of a general war throughout Christendom. Nothing else can produce war; and this is the reason why I am so anxious for the passage of a bill which will carry our laws into Oregon. Such a bill will be the messenger of peace, and not the torch of discord. My voice is not for war. My desire—my earnest desire is for peace; and I sincerely believe that the course which we, on this side of the house, are anxious to pursue, is the only one to insure peace, and, at the same time, to preserve the honor of both nations.

The senator from New Jersey [Mr. Miller] believes that

an hundred years must roll around before the valley of the Mississippi will have a population equal in density to that of some of the older States of the Union; and that for fifty years at least our people should not pass beyond their present limits. And in this connexion, he has introduced the Texas question. In regard to that question, all I have now to say is that "sufficient unto the day is the evil thereof." I have no opinion to express at this time on the subject. But this I believe: Providence has given to the American people a great and glorious mission to perform, even that of extending the blessings of Christianity and of civil and religious liberty over the whole North American continent. Within less than fifty years from this moment, there will exist one hundred millions of free Americans between the Atlantic and the Pacific ocean. This will be a glorious spectacle to behold;—the distant contemplation of it warms and expands the bosom. The honorable senator seems to suppose that it is impossible to love our country with the same ardor, when its limits are so widely extended. I cannot agree with him in this opinion. I believe an American citizen will, if possible, more ardently love his country, and be more proud of its power and its glory, when it shall be stretched out from sea to sea, than when it was confined to a narrow strip between the Atlantic and the Alleghanies. I believe that the system of liberty, of law, and of social order which we now enjoy is destined to be the inheritance of the North American continent. For this reason it is, that the Almighty has implanted in the very nature of our people that spirit of progress, and that desire to roam abroad and seek new homes and new fields of enterprise, which characterize them above all other nations, ancient or modern, which have ever existed. This spirit cannot be repressed. It is idle to talk of it. You might as well attempt to arrest the stars in their courses through heaven. The same Divine power has given impulse to both. What, sir! prevent the American people from crossing the Rocky mountains? You might as well command Niagara not to flow. We must fulfil our destiny. The question presented by the senator from New Jersey is, whether we shall vainly attempt to interpose obstacles to our own progress, and passively yield up the exercise of our rights beyond the mountains on the consideration that it is impolitic for us ever to colonize Oregon. To such a question I shall give no answer. But, says he, it will be expensive to the treasury to extend to Oregon a territorial government. No matter what may be the expense, the thing will eventually be done; and it cannot be prevented, though it may be delayed for a season.

But again: Oregon, says the senator from New Jersey, can never become a State of this Union. God only knows. I cannot see far enough into the future to form a decided opinion. This, however, I do know: that the extension of our Union thus far has not weakened its strength; on the contrary, this very extension has bound us together by still stronger bonds of mutual interest and mutual dependence. Our internal commerce has grown to be worth ten times all our foreign trade. We shall soon become a world within ourselves. Although our people are widely scattered, all parts of the Union must know and feel how dependent each is upon the other. Thus the people of the vast valley of the Mississippi are dependent upon the northern Atlantic States for a naval power necessary to keep the mouth of the Mississippi open, through which their surplus produce must seek a market. In like manner, the commercial marine of the Eastern States is dependent upon the South and the West for the very productions the transportation of which all over the earth affords it employment. Besides, the Southern and Southwestern States are protected by the strength of the Union from the invasion of that fanatical spirit which would excite a servile war, and cover their fair land with blood. This mutual dependence of all the parts upon the whole is our aggregate strength. I say, then, let us go on whithersoever our destiny may lead us. I entertain no fears for the consequences, even should Oregon become a State. I do not pretend to predict whether it ever will or not; but if, in a manly and temperate tone, we adhere to our rights, we shall at least spread over her mountains and valleys a population identified with ourselves in religion, liberty, and law. We shall at least bestow upon them the blessing of our own free institutions. They will be kindred spirits of our own; and I feel no apprehension that they will ever excite the Indians of Oregon to attack our remote and defenceless frontiers. They and their fathers have suffered too severely from such a policy on the part of the British government to permit them to pursue a similar policy. They will at least be good neighbors.

Has it never occurred to the senator from Massachusetts how inconsistent his arguments are with each other? In one breath, he tells the Senate that Great Britain will go to war for Oregon; and in the next that the Hudson Bay company will voluntarily retreat before the advancing tide of our agricultural population, and abandon it without a struggle. Rest assured, sir,

England is too wise to risk a war for such a possession, valuable as it may be, on such a claim of title as she presents. She is wise as she is powerful. Look at her position in regard to Ireland. What is that island at this hour but a magazine of gunpowder, ready to explode at any instant? A single spark may light in a moment the flames of a civil war. Look at the discontents which so extensively prevail throughout the island of Great Britain itself, springing from the want and misery of millions of her subjects, and from other dangerous causes which I shall not now enumerate. Although in profound peace with all the world, in addition to all the other taxes on her subjects, she has been compelled to resort to a heavy income tax to support her government. She is dependent upon us for the most valuable foreign trade which she enjoys with any civilized nation; nor can she supply the demands of China for her cotton fabrics, and thus realize the visions of wealth which she sees in the perspective, without first obtaining the raw material from our fertile fields. England, as I have already said, is wise as well as great and powerful; and she will never go to war with us unless upon a question in which her honor is involved. It is a moral impossibility that, at this day, in the nineteenth century of the Christian era, Great Britain will go to war for Oregon, when the facts and arguments in favor of our title are so clear, that they would prove at once to be conclusive before any impartial, independent, and enlightened tribunal. There is no danger of a war, unless it may be from our own pitiful and pusillanimous course—unless, without making any serious effort to adjust our conflicting claims, we timidly stand by and suffer her to settle the territory to such an extent that it will be out of her power to abandon her subjects there, without violating her faith to them. The present is the propitious moment to settle the whole question; and I conscientiously believe that the mode proposed by my friends and myself would prove the best means of attaining the object.

I admit, with regret, that some very dangerous symptoms exist in both countries at the present moment. The whole press of Great Britain—her magazines and quarterlies, and all, without distinction of sect or party—for the last two years, has teemed with abuse of America, and all that is American. Our institutions, our literature, and everything connected with us have been subjects of perpetual vituperation. Such abuse is unexampled at any former period of her history. Thus the minds of the British people have been inflamed into national hostility against us.

And, on the other hand, what is the state of public feeling among ourselves? Although there are many, especially in our large cities, who entertain an affectionate feeling towards England, (insomuch that, on a great public occasion in the largest of these cities, the health of "the President of the United States" was drunk in silence, whilst that of "Queen Victoria" was received with thunders of applause,) yet among the great mass of our people a very different feeling prevails. They still remember the wrongs they have endured in days past; they remember these, perhaps, with too deep a sensibility. And although senators on this floor may please their ears with terms of mutual endearment by styling the two nations "the mother" and "the daughter," yet a vast majority of our countrymen are penetrated with the conviction that, towards us, England has ever acted the part of a cruel stepmother. It is this deep-wrought conviction, these associations of former scenes with the universal abuse at present poured out upon us by the British press and people, which lie at the foundation of the national enmity which now too extensively prevails. It is these injuries on the one side, and their remembrance on the other, which keeps up the ill blood between the two countries. There is surely nothing in the existing relations between them which will cause our people to forget that there is one calamity still worse than war itself, and that is the sacrifice of national honor.

I repeat the declaration that, for myself, I am deeply anxious to preserve peace. There is nothing like blustering in my nature; and the use of language of such a character would be unworthy of ourselves. Besides, it could produce no possible effect upon the power with whom we have this controversy, and would injure rather than advance our cause. I am, notwithstanding, in favor of asserting our rights in a manly tone, and in a fearless manner. The time has, I believe, come, when it is dangerous any longer to tamper with the Oregon question. So far as my voice may go, I shall refuse longer to delay the settlement of this question. I shall not consent to its postponement. I would send our people west of the Rocky mountains whenever they may choose to go, but I would send them there under the protection and restraint of law; and if I did not in my heart believe this to be the best mode of insuring to us the possession of our own territory, and preserving the national peace in company with the national honor, I should not so long have detained the Senate in presenting my views on this important subject.

REMARKS, MARCH 13, 1844,

ON CERTAIN RELIGIOUS MEMORIALS.[1]

Mr. Buchanan presented a memorial from James J. Brownson and numerous citizens of western Pennsylvania, representing that, having with deep anxiety and painful emotions observed the distraction and alienation which are so alarmingly prevalent throughout the greater part of our beloved country, especially among the representatives of the people, who are so exceedingly broken in judgment that the affairs of the nation cannot be conducted so as to sustain its dignity and promote its best interests; and being fully convinced that the neglect to recognise the law of God as the only basis of all human legislation is the fontal source of these evils, the legitimate, yet bitter fruits growing out of this radical defect in the instrument which lies at the foundation of this republic, and is regarded as "the supreme law of the land;" and that God in his providence is causing these "times to pass over us, to let this nation know that the Most High ruleth in the kingdoms of men," (Dan. iv. 25, 26,) and "that all people, nations, and languages, should serve him." (Dan. vii. 14.)—

We therefore pray you, as their representative, to recommend to the people of these United States an alteration in the constitution, embracing the following amendments:

1. A clear and explicit acknowledgment of the Sovereign of the Universe, as the God of this nation.

2. An entire and AVOWED submission to the Lord Jesus Christ, His anointed, (Psalms ii. 1,) who is prince of the kings of the earth, (Rev. i. 5,) the head of all principality and power, (Col. ii. 10,) as the Ruler of this nation.

3. An unreserved reception of His revealed will, contained in the Scriptures of the Old and New Testament, as the law PARAMOUNT, by which all the officers of this republic shall be regulated; all conflicting State laws being regarded as perfectly null and void, (Psalm ii. 10–12.) "Be wise now, therefore, O ye kings!" Also, (Psalm xix. 7–11,) "the law of the Lord is perfect," etc.

We also most *earnestly* and *solemnly* entreat you, as you regard your own and the best interests of the nation, that you rescind, at once and forever, all enactments whereby a violation of God's law is authorized, whether by running the mail-stage on His Sabbath, or otherwise; for "righteousness exalteth a nation, but sin is a reproach to any people." (Prov. xiv. 34.) See also Psalm xliv. 20, where the Divine displeasure is expressed; and Psalm ix. 17, where nations that forget God are devoted to destruction. Also, Jer. v. 9, where God has denounced his dread vengeance upon all the nations that do not serve and obey him; and in Rev. xix. 11–21, the vengeance

[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 376.

is represented as being executed, the battle decisive, the overthrow entire and complete.

With these, and many other portions of *infallible* truth before us, and also a knowledge of the many and grievous sins with which this nation is chargeable in the sight of God—it is our deliberate judgment that nothing but *national* repentance, and a thorough reformation in both constitution and administration, will save this republic from threatened and impending ruin. By the alienation, distraction, pecuniary embarrassments, and other abounding calamities, God in his providence is saying, in the language of the prophet Isaiah, "Come now and let us reason together. If ye be willing, and obedient, ye shall eat the good of the land; but if ye refuse, and rebel, ye shall be devoured with the sword, for the mouth of the Lord hath spoken it." Chapter v. 18–20.

Mr. B. said the memorial was signed by a number of respectable citizens of Pennsylvania, some of whom he was personally acquainted with; but as there was no committee to which it could be appropriately referred, he moved that it be received and laid on the table. Agreed to.

Mr. Bagby believed that the course with such petitions was not to lay the petition on the table, but to lay the motion of reception on the table. All of that description had been so disposed of. He thought it would be well to adhere to the rule in all cases of the kind.

Mr. Buchanan said the memorial was similar to others which had been received and laid on the table. He had examined it with care, and there was nothing, in his opinion, in it, which would involve it in the rule which required that the motion for the reception of certain kinds of petitions should be laid on the table; and there was nothing in it, he was confident, to which his friend from Alabama could or would take exception.

Mr. Bagby was understood to say the petition was the offspring of the same fanaticism which the rule was intended to reach.

Mr. Buchanan said the senator from Alabama would permit him to say that he was under a mistake. There was a most respectable sect, which he believed were called Covenanters, who have not voted, or participated in the political affairs of the country, because it was not acknowledged in the constitution that the God of nature was the God of this people. He believed that the object of the memorialists (at least he was informed so) was to have the recognition of that principle in the constitution of the United States.

Mr. Bagby made some remark not heard in the reporters' gallery. The subject was then dropped.

REMARKS, MARCH 18 AND 19, 1844,

ON THE OREGON QUESTION.[1]

[March 18.] Mr. Buchanan regretted that he was the innocent cause of calling forth from the honorable gentleman the exertion of a speech. He had already been replied to by the honorable senator from Kentucky and by the honorable senator from Virginia, and now he has got another reply from the other honorable senator from Virginia; he was not, however, at the moment, going to reply to them. He thought, in his reply to the honorable senator from Kentucky, that he was sufficiently explicit in declaring that he had no intention to censure those who voted for the treaty of 1842. Though he was not going to reply, he was glad to hear the honorable senator [Mr. Rives] admit one thing—his willingness to extend to Oregon the benefit of our laws.

Mr. Rives. That is nothing new. I advocated the same last session.

Mr. Buchanan said there were two distinct issues of facts between the honorable senator and himself. He stated that Sir Robert Peel asserted, in his place in Parliament, that a map found in the library of the late King George the Third, with the boundary line marked on it, and the words, "*this is the line of Oswald's treaty,*" written by the King's hand, was in possession of Lord Ashburton when carrying on the negotiation in this city; and, furthermore, he asserted that the expressed opinions of Lord Brougham and Sir Robert Peel were, that, if this map was produced in proper time, it would have done away with the necessity for any negotiation, and settled the controversy at once. If there was no censure to be cast on Lord Ashburton, there certainly was (if this was true) censure to be cast on the government he represented. He had before him extracts from the English debates, as reported in the newspapers; but, lest they should be erroneous, he would delay his reply until he should have an opportunity of consulting Hansard's Parliamentary Reports, which he would do on this night, and in the morning be prepared to show by them that he was not mistaken. If he was, he was never so mistaken in his life; and no man would come forward more readily to acknowledge that mistake, and to express his regret for having fallen into it.

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[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 398–399, 407.

Mr. Choate said something about giving an explanation on to-morrow, but was nearly inaudible in the reporters' gallery.

[March 19.] Mr. Buchanan having next obtained the floor, remarked that he had yielded it to the senator from Massachusetts this morning, to make, as he had informed him, an explanation. He (Mr. B.) had no complaint whatever to make. The senator had, however, made a speech, and certainly a very studied speech; and it was altogether, or very nearly, in reply to himself, (Mr. B.) He had had the honor of being replied to by four gentlemen; and he was sure, after all this, the Senate of the United States would permit him to pay his respects to the senator from Massachusetts. He (Mr. B.) was entirely unconscious that ever he was guilty of perpetrating a line of poetry, until accused of it by the senator from Massachusetts. But if ever he was guilty of any such thing, he now yielded the palm to the senator; for his poetry had surpassed any thing in that way that he (Mr. B.) had ever even imagined. He would move the Senate to adjourn, as it was entirely too late for him to make the few remarks he intended to offer to the Senate on this occasion.

On Mr. B.'s motion,

The Senate then adjourned.

REMARKS, MARCH 20, 1844,

ON THE OREGON QUESTION.[1]

On motion by Mr. Archer—

The Senate resumed the consideration of the following resolution, viz.:

Resolved, That the President of the United States be requested to give notice to the British government that it is the desire of the government of the United States to annul and abrogate the provisions of the third article of the convention concluded between the government of the United States of America and his Britannic Majesty the King of the United Kingdom of Great Britain and Ireland on the 20th October, 1818, and indefinitely continued by the convention between the same parties, signed at London the 6th August, 1827.

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[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 411–414; Appendix, 350–352. Only a part of what Mr. Buchanan said on March 20 is given in the Appendix to the Globe; but the part there given, since it was revised by him, is used here in place of what was written down by the reporter.

Mr. Choate said that the senator from Virginia [Mr. Archer] had just intimated to him, that in reference to the speech of the senator from Pennsylvania, as to the sentiments of the people of the United States against Great Britain, he (Mr. C.) had overstated or gone beyond the import of that senator's observations, in the remarks he (Mr. C.) had made yesterday. He certainly had no intention of misquoting or misrepresenting anything that had been said; and he could not have supposed that he had gone beyond the senator's meaning, if it had not been intimated to him by his friend from Virginia that he had been reported to have done so. In justice to himself, as well as to the senator from Pennsylvania, it was necessary that the matter should be corrected. He would examine the report of his remarks in the Intelligencer, and compare what he had quoted from the senator's speech, with the exact words used by the senator as reported in a former number of the Intelligencer; and, as he proposed revising his remarks for publication in an authentic form, he would undertake to state in that revision the senator's words exactly. He had great pleasure in making this explanation at the suggestion of his friend from Virginia, without at all having had any communication with the senator from Pennsylvania on the subject.

Mr. Buchanan said he was glad that the honorable senator from Massachusetts, [Mr. Choate,] had voluntarily done him this much justice. He (Mr. B.) thought if he had gone further and stated that, in the ardor of debate, he had not correctly stated his (Mr. B.'s) observations, according to the report in the National Intelligencer, he would have done better. Certainly he had not done that. He [Mr. C.] said, "If he had done so." Now, it did appear to him (Mr. Buchanan) that he had clearly done so; and that, in the frankness and candor with which he had made this explanation, he ought to have gone so far as to acknowledge it. Surely neither the senator from Virginia, [Mr. Archer,] nor any other senator, in comparing his remarks with the senator's [Mr. Choate's] speech, as reported in the National Intelligencer, with paragraphs quoted from his (Mr. B.'s) speech, could say that the one corresponded with the other.

Mr. Choate was understood to say that he would compare his own speech in the Intelligencer with the report of the senator's speech from which he had made the extract, and, in his revision, make the necessary correction. He could not say how his remarks stood reported in the Intelligencer; and, therefore, could

not say whether he was reported to have overstated the senator's sentiments or not; but if it was thus reported, and he did say so, it was certainly unintentional. The report might be incorrect, or he might himself be incorrect in the quotation. In either case he would, in his revisal, make the necessary correction. Beyond this he could not go. He could not, on his conscience, remember that, in stating the senator's sentiments, he had gone one shade or one hair's breadth beyond what he conceived, from the language itself, he was entitled to go. He could not suppose he would say a thing he did not mean to say; and therefore, if the report represented him as doing so, it must be incorrect. It was not impossible—indeed, it was very probable—that the reporter might have been embarrassed in distinguishing between what a speaker said in his own language and in quoting the language of another. He could easily imagine how, in that way, a reporter might be mistaken as to what was actually said by the speaker as his own. He (Mr. C.) could only say that he would do perfect justice to the senator from Pennsylvania, in preparing his remarks for publication in an authentic form.

Mr. Buchanan said there was no person in the world—no member of this Senate, more desirous of avoiding anything like such a difficulty than he was. He had come here this morning prepared to reply to the whole speech of the senator from Massachusetts, [Mr. Choate.] It seemed that he [Mr. C.] with every feeling, he had no doubt, of doing him justice, had not yet compared the report of his own speech in the National Intelligencer with the paragraphs of his (Mr. B.'s) speech. He should not, therefore, proceed to the discussion of this question to-day—at least, in reply to the remarks of that Senator. All he wanted, and all he desired, was, to be stated correctly in every paragraph; and not only every paragraph, but every sentence, word, and syllable, in regard to the question in dispute, of his own speech as reported in the Intelligencer, he endorsed; and it certainly could not be a difficult matter for any person to decide, upon comparing the one with the other, how the matter stood.

He would go on, however, this evening, and make the explanation in regard to the treaty, which he had promised to make; and which he would have made yesterday morning, but that he was very willing to yield the floor to the senator from Massachusetts, [Mr. Choate,] for his explanation. And he would be as brief as possible.

If there was any man in this world who desired to do strict

and impartial justice, not only to those at home, but to the British government, it was himself. And the proposition which he had stated, and which he believed to be able to sustain by proof, was, that the British government, at the time when they sent Lord Ashburton here to negotiate the treaty—about which he trusted he should never have occasion to say another word—were in possession of a map, of such high authenticity that, in the opinion of British statesmen, it would have settled the question at issue between that government and the United States, and set it at rest for all future time. That they had full knowledge of the existence of this map was absolutely certain—though he hoped the fact might not be so that the knowledge of the existence of this map was communicated to Lord Ashburton. If he [Lord Ashburton] were to say, at any time, that he was not, while negotiator here, aware of such a map being in existence, he (Mr. B.) should implicitly believe his word. But before he proceeded to make further comments, he should beg leave to ask the clerk to read, first, what was said by Sir Robert Peel, and secondly, by Lord Brougham, on this subject. The secretary of the Senate then read from Hansard's Parliamentary Debates the following passage from Sir Robert Peel's speech:[1]

But the noble lord considers that a certain map which has been found in the archives of the Foreign Office at Paris is conclusive evidence of the justness of the British claims. Now, sir, I am not prepared to acquiesce in any such assertion. Great blame has been thrown upon Mr. Webster with respect to this map. He has been charged with perfidy and want of good faith in not having at once disclosed to Lord Ashburton the fact of his possessing this map. Now, I must say that it is rather hard, when we know what are the practices of diplomatists and negotiators,—I say it is rather hard to expect that the negotiator on the part of the United States should be held bound to disclose to the diplomatist with whom he was in treaty all the weak parts of his case; and I think, therefore, that the reflections cast upon Mr. Webster—a gentleman of worth and honor—are, with respect to this matter, very unjust. This map was, it is true, found in the archives of the Foreign Office at Paris; and a letter of Dr. Franklin's has also been found, having reference to some map; but there is no direct connexion between the map so found and the letter of Dr. Franklin. In general, there is such a connexion, as in the case of maps referred to in despatches; but there is none in this case. There is nothing to show that the map so found is the identical map referred to by Dr. Franklin in his letter; and nothing can be more fallacious than relying on such maps. For, let me state what may be said upon the other side of the question with respect to maps. We made

[1] Hansard's Parliamentary Debates, 3d series, vol. 67, pp. 1247–1250, March 21, 1843.

inquiry about those maps in the Foreign Office at Paris, and we could find none such as that in question at first. We have not been so neglectful in former times with respect to the matter as the noble lord seems to think. We made inquiries, in 1826 and 1827, into the maps in the Foreign Office at Paris, for the purpose of throwing light upon the intentions of the negotiators of 1783. A strict search was made for any documents bearing in any manner upon the disputed question; but, at that time, neither letter nor map could be found. However, there were afterwards discovered, by a gentleman engaged in writing a history of America, a letter and a certain map, supposed by him to be the map referred to in the letter. In answer to our first inquiry, as I have already stated, no such map could be discovered. The first which we received from the Foreign Office at Paris was a map framed in 1783 by Mr. Faden, geographer to the King of England. On that map is inscribed, "A map of the boundary of the United States, as agreed to by the treaty of 1783: by Mr. Faden, geographer to the King." Now, sir, that map placed the boundary according to the American claim. Yet it was a cotemporary map, and it was published by the geographer to the British King. There was a work which I have here, a political periodical of the time, published in 1783, called *Bewe's Journal.* It gives a full report of the debate in Parliament upon the treaty then being concluded; and, in order to illustrate the report, it also gives a map of the boundaries between the countries as then agreed to. That map, sir, also adopts the line claimed by the United States. On subsequent inquiry at Paris, we found a map, which must be the map referred to by Mr. Jared Sparks. There is placed upon that map a broad red line, and that line marks out the boundary as claimed by the British. It is probably a map by M. d'Anville, of 1746, and there can be no doubt but that it is the map referred to by Mr. Jared Sparks; but we can trace no indication of connexion between it and the despatch of Dr. Franklin. To say that they were connected, is a mere unfounded inference.

But there is still another map. Here—in this country—in the library of the late King, was deposited a map by Mitchell, of the date 1753. That map was in the possession of the late King, and it was also in possession of the noble lord, but he did not communicate its contents to Mr. Webster. It is marked by a broad red line, and on that line is written, "Boundary, as described by our negotiator, Mr. Oswald;" and that line follows the claim of the United States. That map was on an extended scale. It was in possession of the late King, who was particularly curious in respect to geographical inquiries. On that map, I repeat, is placed the boundary line—that claimed by the United States—and on four different places on that line, "Boundary, as described by Oswald." Now, I do not say that that was the boundary ultimately settled by the negotiators; but nothing can be more fallacious than founding a claim upon cotemporary maps, unless you can also prove that they were adopted by the negotiators; and, when the noble lord takes it for granted that, if we had resorted to arbitration, we should have been successful in obtaining our claims, I cannot help thinking that the matter would be open to much discussion. Indeed, I do not believe that that claim of Great Britain was well founded—that it is a claim which the negotiators intended to ratify. I cannot say, either, that the inquiries which have been instituted since Mr. Sparks's discovery have materially strengthened my conviction either way. I think they leave matters much as they were; and nothing, I

think, can be more delusive than the expectation that, if the question were referred to arbitration, the decision would inevitably have been given in your favor, in consequence of the evidence of maps, which would not be regarded as maps recognised by the negotiators themselves. And then, sir, with reference to the maps discovered subsequently to the conclusion of the negotiations conducted by Lord Ashburton. The noble lord opposite has stated that his predecessor in office had made all possible inquiry into the matter, and possessed all the elements of information connected with it. Lord Ashburton, then, had a right to draw the same conclusion. He had a right to presume that he was sent abroad in possession of all the elements of information on which a satisfactory conclusion could be come to; and, therefore, the subsequent discovery of the map in Paris, even if it could be positively connected with Dr. Franklin's despatch, would be no ground for the impeachment of the treaty of Lord Ashburton, or for proving that he had not ably and honorably discharged his duties. If blame should fall upon any one, it should fall upon those who have been conducting these negotiations for years.

Mr. B. then sent to the secretary's table another volume of Hansard's Debates, from which the clerk read Lord Brougham's remarks, as follows: [1]

A great charge against Mr. Webster is, that he suppressed the map of Dr. Franklin in the course of the negotiation; and this suppression has been said to savor of bad faith. I deny it. I deny that a negotiator, in carrying on a controversy, as representing his own country, with a foreign country, is bound to disclose to the other party whatever he may know that tells against his own country, and for the opposite party. I deny that he is so bound, any more than an advocate is bound to tell the court all that he deems to make against his own client and for his adversary. My noble friend, Lord Ashburton, has been objected to—my noble friend opposite has been blamed for selecting him—because he is not a regular bred diplomatist; because he is not acquainted with diplomatic lore; because he is a plain unlettered man as regards diplomatic affairs; and because he had only the guide of common honesty and common sense, great experience of men, great general knowledge, a thorough acquaintance with the interests of his own country and of the country he was sent to, for his guide in the matters he was to negotiate. But I believe my noble friend has yet to learn this one lesson—that it is the duty of experienced diplomatists, of regular bred politicians, of those who have grown gray in the mystery of negotiation and the art of statescraft, that when you are sent to represent a country, and to get the best terms you can for it, to lower the terms of the opposite party, and to exalt the terms of your own, as far as may be—you ought first of all to disclose all the weaknesses of your own case—that your duty to your country is something, but that your duty is first to the opposite party, and that you are bound to tell everything that makes for that adverse party. That is your duty; that is one of those arts of diplomacy which have lain concealed until the present year 1843—one of those principles of statesmanship which

[1] Hansard's Parliamentary Debates, 3d series, vol. 68, pp. 626–629, April 7, 1843.

it remained for the 6th of Victoria to produce and promulgate, but which were assuredly not quite understood by that old French statesman, albeit trained in the diplomatic school, who said that language had been conferred upon men by Providence for the purpose of concealing their thoughts. This was a lesson he had yet to learn, this regular-bred diplomatist—this practised negotiator. He certainly could not have thought that it was his duty to practise a window in his bosom, and let every one see what passed in his mind. But it was the duty, it seems, of my noble friend to tell all; and it was equally the reciprocal duty of Mr. Webster to do the same. It was my noble friend's duty to disclose all that he had found out against the negotiation he went to conduct. That was the new art, the new mystery, the new discovery of 1843; but I find my honorable friend, Mr. Webster, has great authority, and that even if he were wrong, he errs in excellent good company. It does so happen that there was a map published by the King's geographer in this country in the reign of his Majesty George III.: and here I could appeal to an illustrious duke whom I now see, whether that monarch was not as little likely to err from any fulness of attachment towards America, as any one of his faithful subjects! [The Duke of *Cambridge:* Hear.] Because he well knows that there was no one thing which his revered parent had so much at heart as the separation from America, and there was nothing he deplored so much as that separation having taken place. The King's geographer, Mr. Faden, published his map in 1783, which contains, not the British, but the American line. Why did not my noble friend take over a copy of that map? My noble friend opposite (Lord Aberdeen) is a candid man; he is an experienced diplomatist, both abroad and at home; he is not unlettered, but thoroughly conversant in all the crafts of diplomacy and statesmanship. Why did he conceal this map? We have a right to complain of that; and I, on the part of America, complain of that. You ought to have sent out the map of Mr. Faden, and said, "this is George the Third's map." But it never occurred to my noble friend to do so. Then, two years after Mr. Faden published that map, another was published, and that took the British line. This, however, came out after the boundary had become matter of controversy, *post litem motam.* But, at all events, my noble friend had to contend with the force of the argument against Mr. Webster, and America had a right to the benefit of both maps. My noble friend opposite never sent it over, and nobody ever blamed him for it. But that was not all. What if there was another map containing the American line, and never corrected at all by any subsequent chart coming from the same custody? And what if that map came out of the custody of a person high in office in this country—nay, what if it came out of the custody of the highest functionary of all,—of George 3d himself? I know that map—I know a map which I can trace to the custody of George 3d, and on which there is the American line and not the English line, and upon which there is a note, that from the handwriting, as it has been described to me, makes me think it was the note of George 3d himself: "This is the line of Mr. Oswald's treaty in 1783," written three or four times upon the face of it. Now, suppose this should occur—I do not know that it has happened—but it may occur to a Secretary of State for Foreign Affairs,—either to my noble friend or Lord Palmerston, who, I understand by common report, takes a great interest in the question; and though he may not altogether approve of the treaty, he may peradventure envy the success which attended it, for it was a success which did not

attend any of his own American negotiations. But it is possible that my noble friend or Lord Palmerston may have discovered that there was this map, because George 3d's library, by the munificence of George 4th, was given to the British Museum, and this map must have been there; but it is a curious circumstance that it is no longer there. I suppose it must have been taken out of the British Museum for the purpose of being sent over to my noble friend in America; and that, according to the new doctrines of diplomacy, he was bound to have used it when there, in order to show that he had no case—that he had not a leg to stand upon. Why did he not take it over with him? Probably he did not know of its existence. I am told that it is not now in the British Museum, but that it is in the Foreign Office. Probably it was known to exist; but somehow or other that map, which entirely destroys our contention and gives all to the Americans, has been removed from the British Museum, and is now to be found at the Foreign Office. Explain it as you will, that is the simple fact, that this important map was removed from the museum to the office, and not in the time of my noble friend [Lord Aberdeen.]

After these extracts from the speeches of Sir Robert Peel and Lord Brougham had been read, Mr. Buchanan proceeded to say, that after the reading of these extracts, it would require but few observations from him to establish his first position; which was, that the British government, at the time when they sent Lord Ashburton here to negotiate a treaty, were in possession of a map of such high authority, and such undoubted authenticity, that in the opinion both of Sir Robert Peel, the prime minister of England, and Lord Brougham, its production would have settled the northeastern boundary question, beyond all further controversy, in favor of the United States. In order to illustrate the conclusive character of this map, it might be necessary to make a very few observations.

Richard Oswald was the sole negotiator, on the part of Great Britain, of the provisional articles of the treaty of peace, concluded with the United States at Paris, on the 30th November, 1782. He (Mr. B.) had carefully compared the article of this treaty defining the boundaries of the United States, with the corresponding article in the definitive treaty of peace concluded on the 3d September, 1783, and found them to be identically the same,—word for word. It was clear, therefore, that Mr. Oswald's treaty had fixed the boundaries of the United States, and that, in this respect, the subsequent treaty of 1783, negotiated by David Hartley, on the part of Great Britain, was but a mere copy and ratification of the treaty of 1782.

It was well known that George the Third prized his North American colonies as the most precious jewel in his crown. He

had adhered to them with the grasp of fate; and even when, at one time, Lord North was willing to bring the war to a conclusion by acknowledging their independence, the King, still hoping against hope, that he might ultimately be able to subdue them, insisted on its continuance a little longer. It was notorious to the whole world that he felt the deepest interest in the question. Was it not, then, highly probable—nay, was it not absolutely certain, that when Mr. Oswald returned from Paris, after concluding the provisional treaty, the very first inquiry of his sovereign would be,—where is the boundary line of my dominions in America? Show me on the map what portion of them the treaty has retained, and what portion it has surrendered. Besides, such an inquiry would fall in with one of the King's peculiar tastes, for he "was (says Sir Robert Peel) particularly curious in respect to geographical inquiries."

George the Third, as history represented him, was probably, to a certain extent, a man of narrow prejudices; but he was a sovereign of sound judgment and incorruptible personal integrity. Those best calculated to judge of his abilities had spoken of them in the most favorable terms. Mr. B. here referred to the account which had been given by Mr. Wesley and Dr. Johnson of their interviews with him. When Mr. Adams, our first minister to Great Britain, after the treaty of peace, was presented to the King, his declaration was characteristic and honorable: "I have been the last man in my dominions to accede to this peace which separates America from my kingdom: I will be the first man, now it is made, to resist any attempt to infringe it." It now appeared that there had been found in his private library a map, on which was marked a boundary line between his North American provinces and the United States, which gave us the whole of the disputed territory; and if this had been all, the fact might possibly have been explained consistently with the claims of Great Britain. But, according to the testimony of Sir Robert Peel, on this "broad red line" there was marked, in four different places, not merely the words, "boundary of the United States," nor yet "boundary of Mr. Oswald's treaty," but these emphatic words—"Boundary, as *described* by our negotiator, Mr. Oswald." Was not this convincing—conclusive proof, that either Mr. Oswald had marked this boundary line, or that it had been done by some person under his direction, at the request of George III. himself? But even this was not all: Lord Brougham had expressed the opinion in the House of Lords, from the infor-

mation he had received, that the words, "Boundary, as described by our negotiator, Mr. Oswald," was in the proper hand-writing of that sovereign.

After all this, well might Sir Robert Peel declare that he did not believe "that that claim of Great Britain was well founded; that it is a claim which the negotiators intended to ratify;" and well might Lord Brougham say, in his characteristic manner, that the production of this map by Lord Ashburton would have shown "that he had not a leg to stand upon," and that it "entirely destroys all our contention, and gives all to the Americans."

Here, then, was the highest and most conclusive evidence against the British claim. Here was the acknowledgment of the British sovereign himself, under his own hand, from whose kingdom the American colonies had been wrested, that the boundary described by his own negotiator in the treaty of peace gave the whole of the disputed territory to the United States. Here was the confession, against himself, of the individual interested above all others in the question, and made long before any controversy had arisen on the subject. It was highly probable—nay, almost certain—that this map, found in the library of George III., was the very map from which Mr. Faden, the British royal geographer, drew his map of 1783, mentioned by Sir Robert Peel, which also gave to the United States all the territory in dispute.

But the Senator from Virginia[1] had contended that there was no evidence to prove that Lord Ashburton, when he concluded his treaty, had any knowledge of the existence of this map; had declared that if it were in his possession, when he assured Mr. Webster, in the most solemn manner, that it was his belief that the negotiators of the treaty of 1782 meant to throw all the waters which were tributary to the river St. John within the British territory, it was impossible he could, with honor, have made such an asseveration; and that, admitting the map to be as he (Mr. B.) had described it, "no epithet in the language would be strong enough to express the infamy which must brand any government which could conduct its high diplomatic intercourse in such a manner."

Now, sir, let me, in the first place, do justice to myself, as well as to Lord Ashburton. After a careful examination of the debate as reported by Hansard, the highest authority, and which

[1] Mr. Rives.

he had never before seen, he most cheerfully admitted that the reference in the following sentence of Sir Robert Peel was to Lord Palmerston, and not to Lord Ashburton: "That map was in possession of the late King, and *it was also in possession of the noble lord;* but he did not communicate its contents to Mr. Webster." From the newspaper reports of the debate which he had read, he had never doubted—he had never heard it doubted by any person, but that the reference was to Lord Ashburton. He had been convinced of his error, however, by Hansard's report of the debate, and it afforded him great pleasure to retract it.

But did it not require a mantle of charity broader than had ever been cast over any individual to believe that the British government, being in possession of such a map—a map with such marks of authenticity and such claims to the most conclusive authority—would have sent out Lord Ashburton to negotiate a treaty in relation to the very boundary which it described, and yet have left him in ignorance of its existence? Would they not, at least, have furnished him a copy of it? for he supposed the original was too precious to be suffered to leave the Foreign Office. It was possible Lord Ashburton's character stood so high, as a man of honor and integrity, that the British ministry might have deemed it unsafe to intrust him with such a secret, so fatal to their claims, from an apprehension that he might prove unwilling to exert himself in a cause which he would then have known to be so bad. Mr. B. hoped this might prove to be the fact; and declared that if it should be made clearly to appear, or if Lord Ashburton himself would disclaim that he had any knowledge of the existence of such a map, his opinion of that gentleman was so high he would rise instantly in his place and do him justice.

There was one sentence in Sir Robert Peel's speech, in which he observed that Lord Ashburton "had a right to presume that he was sent abroad in possession of all the elements of information on which a satisfactory conclusion could be come to." Undoubtedly he had a right thus to presume; and if this map had been concealed from him, he would have had just cause of complaint. If Lord Ashburton was not present at the debate, (and gentlemen informed him that he was not,) he was undoubtedly one of the first persons who read the report of it the next morning in the London journals. Now, if the government had left him in ignorance of the existence of a document so important in relation to his mission—a map from the King's own library—

should we not have heard some explanation from him? Would he not, at once, on the floor of the House of Lords, have indignantly denounced the concealment from him of such a proof of the justice of our claims—a concealment which had caused him erroneously to give to Mr. Webster the most solemn personal assurances of his deep conviction of the justice of the British claim? Would not the speeches of Sir Robert Peel and Lord Brougham, and the fact of the existence of this map which they disclosed, have so nearly touched his sense of honor, that he could not have remained silent? Would he not at once have explained to us and to the whole world the position in which he had been left by the British ministry? Mr. B. said, it *might* be that he did not know of the existence of the map; but he was greatly afraid that Lord Ashburton entertained the same views of the duty of a negotiator which had been avowed by Sir Robert Peel in the House of Commons, and Lord Brougham in the House of Lords—that he was no more bound to produce any evidence which might operate against the interest of his own government, no matter how unfounded their claim might be, than a lawyer was bound to disclose testimony which might injure his client. It was for this reason that, in referring to Lord Ashburton's conduct, he had studiously confined himself to the facts alone, and had avoided the use of all epithets.

But the senator from Virginia had gone further, and expressed his doubts as to whether the present British ministers themselves had any knowledge of the existence of this map of George the Third, when they sent Lord Ashburton upon his mission. He would examine this position for a few moments.

How had this map been removed from the King's library? It was stated that the entire library of his father had been given by the munificence of George IV. to the British Museum. From thence it was removed to the Foreign Office during the time when Lord Palmerston was Secretary for Foreign Affairs, and placed among the archives of that department. Could it then be possible that the present British ministry were not aware of its existence? A map of such high importance, transferred from the British Museum, where it was public, (doubtless lest the eye of some prying American might rest upon it,) to the Foreign Office, and yet the successor of Lord Palmerston remain ignorant of its existence! A document the most important of any on the face of the earth for its bearing on the proposed treaty with this country, and yet the British Minister for Foreign Affairs know

nothing concerning it while preparing the instructions for Lord Ashburton! It was impossible to imagine that some one of the officials in the Foreign Office, when Lord Aberdeen was investigating the subject, should not have brought this all-important document to his notice, even if we could suppose he had before been ignorant of its existence. If Lord Palmerston had removed it from the Foreign Office on his own retirement, this fact would have been stated by Sir Robert Peel, and he would have declared that it had never come to his knowledge. Yet, throughout his remarks, he spoke of it as he would have done of any other well-known document, without the slightest intimation that the present ministry had been ignorant of its existence.

Now, in the face of all that had transpired, both in the House of Commons and the House of Lords, the senator from Virginia had produced an anonymous note appended to a pamphlet containing Mr. Gallatin's memoir on the northeastern boundary, in which the unknown author says: "We have authority for stating that Lord Aberdeen has said that he was not personally aware of the existence of this map till after the conclusion of the treaty; and that Lord Ashburton was equally ignorant of it till his return to England."

This was said; but by whom? Not by Lord Aberdeen—not by Lord Ashburton. Neither of them had ever made such a declaration in the House of Lords. Had any person ever disputed the fact that this map was in the Foreign Office when Sir Robert Peel and Lord Aberdeen came into power, more than a year before the date of Lord Ashburton's mission? It was impossible that this map should have escaped the notice of Lord Aberdeen, unless it had been criminally kept a profound secret from him, for some mysterious and unaccountable reason, by the officials whose duty it was to place in his hands all the information relative to this most important negotiation. Lord Aberdeen had never accused them of any such concealment. The time to have disclaimed all knowledge of the existence of the map was when the whole subject was under debate in Parliament, and when Sir Robert Peel acknowledged before the world that the claim which the British government had set up against us for a portion of our territory was unfounded. The assertion in that note *might* be true; it was possible; but it was scarcely within the limits of the most remote probability.

But this anonymous writer had gone still further, and had even cast doubts upon the correctness of Hansard's report of the

debate in the House of Commons—stating that, according to another report, Sir Robert Peel, instead of asserting that he did not believe the British claim was well-founded, had stated his belief that it was well-founded. What report this could have been, was not stated. But could such an assertion in an anonymous note weigh a feather against the report in Hansard's Parliamentary Debates? A man writing under no responsibility might make any assertion he pleased. Mr. B. did not know whether these speeches in Hansard were or were not revised by the speakers themselves; but he knew that they were considered the most authentic reports of any that were published.

The senator from Virginia, impelled by his own high sense of honor, had declared that no epithet in our language could be strong enough to express the infamy of any government which conducted the high intercourse of its diplomacy in such a manner as would justly be inferred from the concealment of a map like this by the British ministry. But can doubt longer remain as to the fact of concealment on their part? In the House of Lords, Lord Aberdeen had been sitting by Lord Brougham when he made the speech from which extracts had been read to the Senate, and when he had ridiculed the idea with scorn that the British government were under any obligation to produce this map. Nay, more; Lord Aberdeen had several times been appealed to by Lord Brougham in the course of his address; and yet he expressed no dissent, but sat in silence. Now, Mr. B., whilst he agreed with the senator from Virginia as to the immorality of such conduct, could not think that it deserved such severe censure as had been applied to it. But did not the honorable senator perceive that all the severity of his language now applied, in its fullest force—in all its length and breadth—to the present British ministry? He agreed with the senator that diplomacy was now conducted in a fairer and franker manner than it had been in ancient times; and he could never concur in the doctrine put forth by Lord Brougham, as to the lawfulness of concealing all evidence which made against our own side of the question in a national dispute. According to the maxims of the ancient diplomacy and the doctrine of Lord Brougham, a negotiator was bound to act for his country, in conducting a negotiation, just as a lawyer acted for his client, in conducting a cause. He must take all advantages he could obtain, and conceal everything which might weaken his own side of the question. His lordship had even ridiculed, in the bitterest and most scornful manner, the idea of

showing one's hand in such a game. Here Mr. B. quoted Lord Brougham's language.

There was one view of the case, however, which presented a still more serious aspect against the British ministry than the concealment of this map, highly improper as that may have been. It was this: that in the days of Lord Palmerston's ministry the British government was willing to press this claim to the point of actual war between the two nations, knowing, at the same time, as it now clearly appeared they did, that their claim was false and unjust. Nothing but an overruling Providence had averted this calamity from the two nations, and prevented an actual collision between their forces on the northeastern boundary.

REMARKS, MARCH 22, 1844,

ON A BILL TO REDUCE POSTAGE AND LIMIT THE FRANKING PRIVILEGE.[1]

Mr. Simmons said something, which was not distinctly heard, in relation to an amendment which he wished to offer.

Mr. Buchanan said this was certainly a very important bill, and it did not seem as yet to have claimed that attention which was due to it. He intended himself to examine and consider the provisions of this bill, with a great deal of care, and also to examine the amendments which had been made; and whilst he did not wish to postpone action upon it at all, he presumed the Senate had gone as far to-day as it ought to go. He did not know whether the amendments adopted were of sufficient importance to justify the printing of the bill again.

Mr. Merrick interrupted the senator from Pennsylvania, to state that the bill, with the exception of the amendments which he had submitted himself, was printed as amended by the committee.

Mr. Buchanan proposed, then, that the Senate should fix upon any day that the senator from Maryland [Mr. Merrick] might think proper: and that they should come here prepared to act upon the bill at that time. [It was here suggested that it pass over informally.] It would be better to fix upon a day, and it was of sufficient importance to be taken up as the main subject for consideration on that day.

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[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 423.

Mr. Merrick observed that the only difficulty which he had in agreeing with the honorable senator from Pennsylvania [Mr. Buchanan] was in having it called up in time. He himself had a great desire to examine it with care, and was gratified that the senator from Pennsylvania had signified his intention of bestowing some care upon it. A bill which would meet the approbation of the public mind was what the committee had in view; and he believed the proposed reduction in the postage, and the augmentation of the revenue which would follow, would have the desired effect. His difficulty in agreeing to the proposition of the honorable senator was, that the bill had already been lying here some three or four weeks, awaiting the action of the Senate; and it was very uncertain at what time it might be called up. The public were becoming anxious for the action of this body upon it; and while he was not disposed to have hasty action of the Senate, he was anxious that it should be acted upon as soon as possible, with deliberation. He therefore thought it would be better if his honorable friend from Pennsylvania could agree with him to let it remain as it was now; and it would come up next week in its order, and could then be acted upon.

Mr. Buchanan had no wish, certainly, to delay this bill a moment. He concurred entirely in the general objects which the senator from Maryland had in view. He thought the rates of postage ought to be reduced to the lowest point, consistently with accruing a sufficient revenue to the Post Office Department. He thought the franking privilege ought to be regulated. It required regulation more than anything else in the post office laws; and whilst he concurred entirely in the general objects of the bill, he desired to have an opportunity of ascertaining for himself whether these objects were likely to be accomplished by its provisions. His friend from Missouri [Mr. Benton,] desired to express his sentiments on the subject of the tariff, on Monday next, and he had no other objection to pursuing the course indicated. His own opinion was, however, that if the senator from Maryland would give notice that he would call up the bill on Tuesday, Wednesday, Thursday, or any other day next week, senators would be more likely to turn their attention to the subject than if it were passed over informally, when nobody could tell when it would come up.

Mr. Merrick said that if it would suit his honorable friend, he should consent that the bill should be postponed until Wednesday next. He was quite willing to take that course, as he did

not wish to interfere with anything of a more important nature.

Mr. Simmons then moved the following amendments: To strike out in the first section, 12th and 13th lines, " 100 miles," and to insert in place of it " 250 miles."

Mr. Buchanan suggested to the honorable senator from Rhode Island, as that was a very important amendment, whether it would not be better to let it also lie over till Wednesday.

Mr. Simmons merely wished to offer the amendment now. He would not press the vote upon it to-day. The chief burden of the bill depended on that provision. He would merely state the reasons which induced him to make the proposition. One of the objects of this bill, as he understood the matter, was to put a stop to the transmission of letters by private expresses and private hands, that were now carried in that way. Any one at all, if these letters were counted, would perceive that the object would not be attained by the proposed rate of postage, which was five cents. His opinion was, that not one-fourth of the letters from Albany to New York, Boston, and other large eastern cities, go by mail; and not one-fourth would go by mail, unless they were carried at a reasonable price. His view was that the revenue of the department would be doubled by the reduction which he had proposed upon these routes.

Mr. Buchanan said he had a single remark to make in reply to one of the suggestions of the senator from Rhode Island, [Mr. Simmons.] That senator had stated, that if the rate of postage were not reduced, according to his proposed amendment, (and on the propriety of the amendment in itself he should now express no opinion,) private expresses would continue to carry the greater part of letters between the principal cities. Mr. B. said he could not recognise the existence of such expresses as an argument in favor of the amendment. They were plainly and palpably in violation of the constitution of the United States. That instrument granted to Congress the power, and, as a necessary consequence of this grant of power, imposed upon them the duty, " to establish post offices and post roads." This was a sovereign power; and if individuals could establish private express or opposition lines to rival the public mails, we might as well at once surrender the important powers of government. This grant of power was exclusive in its nature, and neither States nor individuals could impair or arrest its exercise. Constitutionally speaking, as well might individuals establish a mint, and undertake to coin money, as to establish these private expresses. In

point of principle, both were equally destitute of foundation. These private expresses must be put down; and if the present laws were not sufficiently severe for the purpose, new laws must be enacted. It concerned both the interest and the honor of the country, that Congress should not suffer the exercise of its unquestionable constitutional powers to be impaired or defeated by the lawless action of individuals. And well was it for the country that we did possess the power. What would become of the mail facilities which the people now enjoyed in the thinly settled portions of our country, if all the leading routes were rendered profitless to the government by these private expresses?

REMARKS, APRIL 3, 1844,

ON THE BILL FOR THE SUPPORT OF THE MILITARY ACADEMY AT WEST POINT.[1]

Mr. Buchanan said that he intended to vote for the passage of the bill; and he chose to place his vote upon the principle that an appropriation bill was not the proper place to consider and discuss the propriety of abolishing an institution which had so long existed as the Military Academy at West Point. We provided by such bills merely for the appropriation of the money necessary to carry into execution existing laws; but when we desired to repeal or change these laws, we passed separate bills for this purpose. Now, (Mr. B. said) should any bill come before the Senate for the purpose of repealing, modifying, or altering the laws establishing the Military Academy, he would come to the consideration of the subject with a mind perfectly uncommitted by the vote which he intended to give upon the present occasion. Whilst the academy existed under acts of Congress, especially after the other House had passed an appropriation bill in obedience to these acts, he would not, during their continuance, abolish the academy suddenly and without consideration, by withholding the appropriation necessary for its support. This was not the proper mode of accomplishing the object; and he had always opposed such legislation in a mere appropriation bill.

Mr. Breese demanded the yeas and nays on the passage of the bill. They were ordered and taken. The result was: yeas 27, nays 11.

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[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 474.

REMARKS, APRIL 3, 1844,

ON THE CUMBERLAND ROAD.[1]

The bill for the continuation of the Cumberland road in the States of Ohio, Indiana, and Illinois, was taken up as in committee of the whole.

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Mr. Buchanan said his friend from Indiana [Mr. Hannegan] had appealed to the senators from Pennsylvania and Maryland to know whether, after the large appropriations which Congress had made for internal improvements in those States, they intended voting against appropriating money to carry on improvements in Illinois and Indiana. Whether they would go against an appropriation to extend this road or not he could not say. He had always, upon all occasions when the condition of the treasury was such as to justify it—when the estimates were made, and when it was previously ascertained how much should be expended on the road—voted for it; but, as to Pennsylvania, she had always considered that this road was an injury instead of a benefit to her. It was a rival road to her own improvements. He intended, if all things turned out properly, and if he could have the necessary information, to vote for the completion of the Cumberland road; but he would never do so upon the principle laid down by his friends from Illinois and Indiana, [Messrs. Breese and Hannegan,] that there was an obligation on the part of the federal government to complete that road, because the new States had agreed to exempt from taxation lands sold within their borders by the government for five years after such sale. That measure had been a benefit to the new States. It had promoted the sale of the lands, and the settlement of those States. It had been, therefore, a greater benefit to those States than to the federal government. He disclaimed any such obligation.

There was one part of this bill which he should go for striking out, and that was where it was provided that the outlays should be refunded out of the two per cent. fund. This was going rather too far, when it was well known that we had already expended more than ten, fifteen, or twenty times the whole amount of that fund in making roads in the new States.

He was ready, upon receiving proper information, and upon ascertaining what amount of money the treasury could spare, to

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[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 475.

vote for the extension of this great public improvement, even to the banks of the Mississippi; but not because he ever expected to receive any benefit from the two per cent. fund.

In common with the senator from Kentucky, [Mr. Crittenden,] he wished for more light upon this subject. If the senator from Indiana [Mr. Hannegan] could give the necessary information, he was willing to go on and discuss the bill; if not, it ought to be postponed until the information could be obtained.

Mr. White said he was not in his seat when the bill was taken up, and had not heard the objections urged against it. He was certainly surprised at what had fallen from the Senator from Pennsylvania. He could give him some information; it was, that this improvement had added 50,000 inhabitants to the city of Philadelphia. He regretted that, notwithstanding all the benefits Pennsylvania had received from this great work, that State had, according to the account given by its distinguished senator, yielded to it but a grudging support.

Mr. Buchanan denied that he had said the State of Pennsylvania gave but a grudging support to the Cumberland road. It had always supported it from patriotic motives. But he supposed the senator could give the necessary information now called for, and hoped he would.

REMARKS, APRIL 5, 1844,

ON A BILL TO INDEMNIFY NAVAL OFFICERS AND SEAMEN FOR PROPERTY LOST IN WRECKS.[1]

Mr. Buchanan said he was not aware, until the senator from Delaware [Mr. Bayard] called this bill up, that there was any such bill upon file. This was his own fault, to be sure—not the senator's. Of the first section of the bill he most highly approved; and he really—after giving all the attention and reflection he could to the arguments on both sides—did not know himself how he should vote. It was agreed by all who had spoken on the subject, that if a vessel be lost without negligence of duty, or want of sufficient exertion to preserve her on the part of the officers and seamen, they ought to be indemnified for the losses they individually sustained. No government ought to hesitate a moment, if, by an unavoidable accident, these officers and seamen sustained a loss, to make that loss good. But there was a

[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 483–484.

very important question involved here. Ought Congress to reserve to itself the power, and impose upon itself the duty, of investigating all the circumstances of such accidents, or delegate that power elsewhere?

Investigation was not only necessary, in order to ascertain the actual amount of losses sustained, but to fix upon the amount of compensation. Ought Congress to take upon itself this duty, or ought it to refer it exclusively to the Navy Department, under the law provided for by this bill? This was a very important question. He was not aware before—though that was of little consequence—that such a law existed in any other country. He was now enlightened on that subject. He did not, however, conceive that the Senate, at this moment, was ready to decide upon this principle. For one, he was not in the habit of delaying action upon any business before this body, nor was he now desirous to do so. He should be glad, however, if senators interested in this bill would suffer it to lie over until to-morrow, and he had no doubt there were many senators around him who would be gratified by that disposition of it.[1]

REMARKS, APRIL 17, 1844,

ON THE FRANKING PRIVILEGE.[2]

The bill to reduce postage and limit the franking privilege being before the Senate, an amendment was offered to provide that the repeal of the franking privilege should not extend to members of either house of Congress, to Territorial delegates, to the Secretary of the Senate, nor to the Clerk of the House of Representatives; nor to the President of the United States, the Vice President, ex-Presidents, the widow of any ex-President, the Secretaries of State, the Treasury, War, and the Navy, nor to the Postmaster General or the Attorney General.

Mr. Buchanan expected this amendment would have met the decided hostility of the chairman of the Post Office Committee, for it was obvious that, if it prevailed, the bill would not be consistent with the principle upon which the reduction of postage was founded.

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[1] The bill was postponed till the next day.

[2] Cong. Globe, 28 Cong. 1 Sess. XIII. 525.

Mr. B. showed that, under the penny-postage system in England, the Queen herself could not frank a letter, for the very principle of the cheap postage system was, to make everything sent by the mail pay. With regard to the franking privilege, he was opposed to any extension of it beyond the proposition of the bill itself. He was in favor of sending free to the constituents of members of Congress the documents printed by Congress for distribution; but he had no idea that the privilege should be continued of franking speeches and political matter. If he thought any information necessary for the people was to be withheld by an abatement of the franking privilege, he should be opposed to such abatement. But he did not think the abatement proposed by the bill would prevent the dissemination of the very same amount of information to the people which was now available. They would receive that information through the newspapers. If, for instance, he had made a speech which was published in a newspaper, he could send his constituents copies of that paper; and if his constituents did not think it worth while to pay a cent for his speech, it would only prove that they did not want it—not that information was withheld from them. The question now was, whether any experiment of the cheap postage system shall be fairly tried or not. If it was, it must be on the whole principle. He considered the abolishing of the franking privilege as part of the system proposed by the chairman of the Post Office Committee. To adopt the one without the other, would not be a fair test of the principle. He hoped, therefore, the chairman of the Post Office Committee would come out in support of his bill, and oppose this amendment. He (Mr. B.) would very cheerfully vote with his friend from New York, [Mr. Wright,] not only against this amendment, but for striking out the 9th section, so anxious was he to test the experiment fairly.

REMARKS, APRIL 18, 1844,

ON THE PURCHASE OF GREENHOW'S HISTORY OF OREGON.[1]

A bill being before the Senate to authorize the purchase of certain copies of Greenhow's History of Oregon, California, and the other territories on the north and west coast of North America, after some discussion—

[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 531–532.

Mr. Buchanan remarked that he had but a few words to say upon this subject, and he should make good his promise that he would detain the Senate but a very few moments.

The president of this body had appointed him a member of the Committee on Foreign Relations; and he (Mr. B.) was very happy to serve under so worthy a chief as his friend from Virginia. This subject was referred to the Committee on Foreign Relations, and, without the slightest partiality—without the slightest feeling towards Mr. Greenhow or his book, he had considered the matter upon the principles of strict justice; and if in justice—in strict justice—under the peculiar circumstances of the case, the Senate ought not to make this subscription to Mr. Greenhow's book, he hoped that it would not be made. He put it entirely upon that ground. It was not a question of gratuity at all; it was a question of strict justice.

When the chairman of the Committee framed the bill, he did not consult the other members about the disposal of the books; and when he (Mr. B.) learned that each member of Congress was to receive a copy, he objected to that clause, and the chairman at once agreed to strike it out. He (Mr. B.) objected to it, because he held that, having once put down the practice of purchasing books for members of Congress, it should be discountenanced forever. There was nothing, in a small way, more corrupting—nothing more disgraceful to members of Congress—than to purchase books for themselves at the expense of the government.

That objection was now removed by the amendment of his friend from Ohio [Mr. Tappan.] What was the argument advanced against this bill? That it would be a precedent for other cases; and that Mr. Bancroft, Mr. Prescott, or any other distinguished literary man, could appeal to Congress with a similar claim to have a subscription for his productions, as Mr. Greenhow did. More than this, his friend from Ohio [Mr. Allen] said that the Secretary of the Treasury could dress up one of his annual reports, and make an elaborate essay upon finance of it, and then make a similar appeal, with quite as great a show of justice as this appeal was made.

Now, he (Mr. B.) thought that when the objections came to be considered by senators, it would be found that there was nothing at all in them. This was a most peculiar case; and he trusted no case similar to it might ever arise under the government. But if it did, he should be very glad to obtain the infor-

mation which we had obtained through the exertions of Mr. Greenhow, at a cost of five times the amount of $3,000. Yes, six years ago, if he could have contracted to obtain the information on the subject of our title to the Territory of Oregon contained in this book, he would willingly have voted $20,000 to procure it.

He had said this was a peculiar case. It had been in agitation between the government of the United States and that of Great Britain for more than a quarter of a century; and—with all respect to those who had discussed the subject—until Mr. Greenhow made his compilation, we never understood our own case. It is true that we had righteously claimed the title to the territory at the mouth of the Columbia, and to the sources of that river, by discovery; but we never had an examination into the old Spanish title, and the history of the old Spanish voyages, which gave us a right up to 54° 40′ of north latitude. It required time, industry, patience, ability, and experience, and the obtaining from Madrid of an examination of a great many Spanish manuscripts and printed journals. All this was undertaken by this gentleman, and all the information furnished in such a manner as to present the cause of the United States to the whole world, in a light different from that in which it had ever been presented before.

And was this man, who had thus labored in the cause of his country—who had thus rendered an essential service to the government—to be ruined by his attempt to sustain our claim? For, unless this subscription were awarded him, unless he could obtain it from the government, the little means which he had acquired by his salary of $1,600 a year would be entirely exhausted. He must sell 2,500 copies of this work in order to make himself whole; but he believed that he never could sell 2,500 copies in this country. He (Mr. B.) asked him, would not the bookseller agree to take the book for nothing; his answer was, No. We all knew that the history of Oregon and California was not a subject calculated to excite general attention. It was a subject in which the general reader took little interest. Few but scientific men would purchase it; and he (Mr. B.) ventured to say there would not be a sale of 1,000 copies in this country. That was also Mr. Greenhow's opinion.

He (Mr. B.) understood there was some prospect of a demand for the work in England. Mr. G. had an order for 200 and odd copies from a great bookseller in London. This was

most joyful information to him, (Mr. B.;) because, in the history of all our contests with England, our side of the question had never been presented there. If this book should be published, and circulated there, it would produce much effect in our favor upon the minds of the people of England. He was afraid that the intimation of his friend from Virginia, [Mr. Archer,] that we should probably have a treaty upon the subject of Oregon, would turn out to be futile. He (Mr. B.) hoped the honorable senator had some information to support the intimation; but until he had the most authentic assurance himself of that fact, he should still remain convinced that until the government of the States took some more decided action upon the subject, we should have no treaty with England, and no settlement of this question.

Why say that this gentleman got a salary of sixteen hundred dollars a year? Were we entitled, on that account, to receive all the labors of his mind during these hours which he was not called upon or required by law to spend in the discharge of his duty, for the last five or six years? But he did not desire to go into that question.

Here was a book containing the most invaluable information, and it was asked of Congress to take 1,500 copies. How were these copies to be appropriated? Most certainly they were to go to the State legislatures and to the public libraries. They were to go everywhere throughout this country, where public men who, in all probability, never would see the book, unless this subscription was made, would obtain possession of it, and examine into the subject of our claim. Here was the Senate gravely deliberating in debate about a sum of $3,000, when every day it expended twice that amount in printing documents which no man ever cared to read. There was the document of Mr. William Cost Johnson—a report of five or six hundred pages. There were documents, many of them too, printed by the Senate, much larger than this book; and amongst these was a report of another member of the House of Representatives. The Senate was daily in the habit of printing documents of all kinds for which there was no pressing necessity; and yet gentlemen talked of the extravagance of this project! He (Mr. B.) declared that, industrious as he was, he had not time to read one-tenth of the matter thus printed.

And now it was made a question whether a book eminently calculated to settle a controversy with the most powerful nation

on earth, and to end a question of vital importance to our country, should be purchased—1,500 copies of this work, for the purpose of enabling public men to obtain correct information on this vital question.

While he lived, he should not accept a book purchased with the public money. He thought, however, that in justice to Mr. Greenhow, the least Congress could do, when this book was so urgently needed, and when he laboriously compiled it, was to purchase 1,500 copies; and after doing that, even, we should owe him a debt of gratitude for placing us clear in the right, not only in the 49th degree, but in the 54th degree of north latitude.

His position under the committee had enabled him to obtain the facts which he had stated; and he had no disposition to do anything for Mr. Greenhow but what was just. He was satisfied, however, that it would be doing him less than justice to refuse to buy these 1,500 copies of that work. He knew that, in his own State at least, this question of title to Oregon had excited a very deep interest. No appropriation, he felt assured, would be considered by them better laid out, than in disseminating the information which this book contained.

REMARKS, APRIL 24, 1844,

ON THE FRANKING PRIVILEGE.[1]

Mr. Buchanan said the senator from Rhode Island [Mr. Simmons] would now perceive what was the end of all his calculations. The 9th section had to be stricken out. The senator from Maryland [Mr. Merrick] had given notice that the word "sent" was to be inserted in the 8th section, after the word "received." As to the franking privilege, it was to be restored entirely to its present state, with this single exception—that during the recess of Congress, members should have the right to frank and receive manuscript letters and documents not exceeding half an ounce in weight. At present, the right extended to two ounces. Now, the whole change in the question was, whether members of Congress should pass this bill, reserving to themselves the franking privilege entirely as it now existed, with the single exception that they franked manuscript letters, during the

[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 555.

recess, weighing two ounces, under the present regulation, but were limited by this amendment to letters weighing half an ounce. The Senate was now to decide the question; for it was the great point whether the country was to have a cheap postage system on correct principles, or not.

He desired to ask this question. Had there been a single application made to the House of Representatives or the Senate, that did not complain of the abuse of the franking privilege? They had received resolutions from eight States, and petitions and memorials from thousands and tens of thousands of the people. The majority of these asked, not for the abatement of the privilege, but for its entire abolition.

It was reduced by this bill, so far as it concerned public documents sent by either House of Congress; it was reduced, so far as regarded the receiving of them; and, for thirty days before and thirty days after the session, a member had the privilege of sending, by stamp, five letters a day to his constituents. The proposition now before the Senate was to restore that right without any diminution whatever, except in regard to the reduction of weight from two ounces to half an ounce, during the recess of Congress. As to the printed matter, there could be sent, under the amendment proposed by the senator from Virginia, all that had ever been sent during the whole session, and for thirty days before and after. The senator from Virginia had agreed to accept that modification as a part of his system, which system was to restore the present franking privilege. Could it be possible that the Senate of the United States, after all it had done, was about to pursue that course? The franking privilege had been abused, and it was abused, even by the best in either body. They could not avoid doing it. Was there a senator present who did not receive letters under cover to himself, directed to some person in this city? It was the only abuse of the franking privilege he had ever himself committed. He had received such letters frequently; and he generally delivered them to the persons to whom they were directed. He had often written to his correspondents and requested them not to do it any more. He had never franked letters for a gentleman, but when a lady made such a request of him, he had not the heart to refuse her. In the year 1840, he had found franks in this city at the public hotels, to almost any number; and, as the senator from Maryland [Mr. Merrick] said, the principals of schools had called upon members of Congress, and obtained from them

bundles of franks, for the purpose of avoiding postage in these institutions. He believed the country had become convinced that this franking privilege had been most grossly abused.

He was not opposed to retaining this privilege, so far as it was made a means of convenience in transmitting papers and documents of public importance, in preference to the private letters of members; but he did not like the proposed system of doing this by stamps any more than the senator from Virginia. He would rather they should be stricken out altogether; but he believed the majority of the Senate thought otherwise. As to the forging of stamps, there was no danger of that. The whole system in England was carried on by stamps; the penny-post was carried on by stamps: and the government took care that they should be so executed that they could not be forged.

While this bill regulated the franking privilege, and gave to members of Congress all the privilege they desired, to receive letters free of postage during the session, and to send five letters a day to their constituents, it removed all that suspicion from the public mind which now attached itself to those who enjoyed the privilege. That suspicion did exist in the public mind, might be seen from the numerous memorials presented here from day to day. Should members then hold to this privilege undiminished, with the grasp of fate? Many a day passed over his head, at home, during which he did not write a single letter; and the franks to be given him during the session of Congress would not cover one-half the letters that he was obliged to write. Still he wanted to be free from all suspicion—from all imputation. If the franking privilege was restored, it would not be so very small a thing as the senator from Rhode Island seemed to imagine. It was a loss to the Post Office Department of $60,000 a year. According to the estimate in October, it was only $30,000; but double the amount of letters were franked during the session of Congress that were franked during the recess. Therefore, the calculation made in October could not be relied upon as a criterion.

For his own part, he considered this an important principle; and he hoped the Senate would persist in adhering to its former determinations. He would vote against the amendment.

REMARKS, MAY 8, 1844,

ON BANKS IN THE DISTRICT OF COLUMBIA.[1]

The bill to extend the charters of banks in the District of Columbia being before the Senate, Mr. Sevier offered a long amendment, the objects of which were to secure (1) the liability of the directors, (2) that of stockholders, and (3) the sanction of the President of the United States, the Secretary of the Treasury, and the Chief Justice to the nomination of trustees in case of failure. In the course of the debate—

Mr. Buchanan called to the recollection of the Senate that, when this bill was reported, he gave notice that he would move to recommit it, with instructions to the committee to make the stockholders personally responsible in those banks. After that time, he had some communication with a cashier of one of the banks, which induced him to prepare an amendment with a view of securing the noteholders from loss. He found the law of the State of Ohio, in relation to its banks, well drawn; and he compared it with the laws of the States of Pennsylvania and South Carolina. With these models in view, he prepared an amendment which it was his purpose to offer when the bill should come up. The amendment of the senator from Arkansas differed from his in a few particulars. One essential difference was with regard to the nomination of trustees in case of failure or suspension of specie payments. The senator's amendment gave the directors—the very parties implicated in the failure—the nomination of the trustees, whereas his own amendment referred that matter to the circuit court. His amendment also proposed to go back a year and make the directors who, within the year preceding the suspension, had been in office, liable to the noteholders, whether they had sold out their stock or not, before the failure of the bank. The public mind had, within a few years, become greatly enlightened on the subject of banking. Experience had proved that nothing would render banks safe but the individual responsibility of the stockholders. In the State of South Carolina, where for forty years the principle had prevailed, (the stockholders there being liable for double the amount of their stock,) not an instance of loss to the noteholders had ever occurred. It is the very best check upon bankers and stockholders ever devised. The same kind of restrictions he understood existed in Rhode

[1] Cong. Globe, 28 Cong. 1 Sess. XIII. 585, 586.

Island; but he had not been able to obtain the bank laws of that State.

Mr. Sevier remarked that there was very little difference between his amendment and that prepared by the senator from Pennsylvania. As to the two particulars in which the difference consisted, he did not consider them very important. The nomination of trustees by the directors was subject to the approval of the President of the United States, the Secretary of the Treasury, and the Chief Justice; and, with this control, it was but reasonable that those so immediately responsible should have the nomination. These, however, were points which, if necessary, could be set right when the bill came up in the Senate, as reported from the committee of the whole.

Mr. Buchanan inquired if the senator's amendment made provision for advertising stockholders.

Mr. Sevier replied that the list of stockholders was to be published annually on the 1st of January; and, in the respective banks, at all times, there is to be a list of the stockholders, for all purposes of examination.

Mr. Buchanan observed that his amendment provided that each bank should keep a list of its stockholders, to be put up at some convenient place in the public bank room; and that the same list be published once in every three months in the newspapers of the District; which publication shall be evidence of the liability of said stockholders in all courts of law and equity.

Mr. Sevier remarked that he would have no objection to a modification to that effect.

Mr. Phelps objected that the amendment of the senator from Arkansas would incorporate principles in bank charters against which he should protest. He would infinitely prefer the motion of the senator from Ohio, [Mr. Tappan,] which proposed placing the stockholders of these banks on the same footing as the partners in a trading company. He knew of no middle course that could receive his sanction.

Mr. Benton held that there should be no other principle of banking but that of immediate and personal liability. The history of banking for the last 150 years showed that when this principle was fully carried out, not an instance of suspension had occurred. He approved of the amendment proposed by the senator from Ohio.

Mr. Miller asked if the senator from Pennsylvania had offered any amendment.

Mr. Buchanan replied in the negative.

Mr. Miller did not deem it necessary to consume time by any further observations than those he had already made expressive of his non-approval of the amendments.

Mr. Tappan called for the yeas and nays on his amendment to the amendment.

The yeas and nays were ordered, and resulted—yeas 17, nays 26, as follows:

Yeas—Messrs. Allen, Atchison, Atherton, Bagby, Benton, Breese, Colquitt, Fairfield, Hannegan, Lewis, McDuffie, Phelps, Semple, Sturgeon, Tappan, Woodbury, and Wright—17.

Nays—Barrow, Bates, Bayard, Berrien, Buchanan, Choate, Clayton, Crittenden, Evans, Francis, Haywood, Henderson, Huger, Huntington, Jarnagin, Johnson, Mangum, Merrick, Miller, Morehead, Porter, Rives, Sevier, Simmons, White, and Woodbridge—26.

So the amendment to the amendment was rejected.

Mr. Buchanan submitted the following amendment to the amendment, and it was adopted:

SEC. 6. *And be it further enacted,* That each of the said banks shall keep a plain, true, and accurate list of the names of its stockholders, their residence, and the amount of stock paid and owned by them, posted up for public inspection, in some convenient place in the public banking room; and shall cause the same to be published once every three months in at least two of the newspapers of the District of Columbia; which said list, whether posted up in said banks, or published in said newspapers, shall be evidence against the said banks and their stockholders in all the courts of law and equity.

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